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MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, June 20, 2006 Tuesday, 9:05 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Martz, Schlapp, Skelton; present.

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

Rev. Tom Harder from Lorraine Avenue Mennonite Church, gave the invocation.

The pledge of allegiance was participated in by the Council Members, staff, and guests.

The Minutes of the June 13, 2006 meeting were approved 7 to 0.

AWARDS AND PROCLAMATIONS

Recognition

Recognition of Sister Cities Student Ambassadors to Orleans, France.

Mayor Mayans recognized two students and presented each of them with a City of Wichita lapel pin and a certificate that declares them as Sister City Student Ambassadors.

PUBLIC AGENDA

Bill Ramsey-Parking Meters on South Market.

Bill Ramsey

Mr. Ramsey stated that he resides at 8914 Meadow Knoll Court and that the parking meters on the 200 block of South Market have been removed, which were used by his clients. Stated that they are now being used for police parking, which are always empty. Stated that his clients have told him that they will have to take their business somewhere else, because of the lack of parking in the area of his business. Stated that this situation is affecting his business.

Chris Owen-Removal of all metered parking from 200 South block of Market Street.

Chris Owen

Mr. Owen stated that he owns the building at 216 South Market and that Mr. Ramsey is a tenant of his. Stated that the parking situation on South Market is that the north 2/3 of that 200 south block are reserved for police parking and have been for sometime, however the south 1/3 of the block was two hour metered parking for the public. Stated that they have scheduled a meeting with the City Engineer's Department and will meet with them later this week. Stated that he is concerned because he is going to loose tenants because of this and may actually have to leave the downtown area. Stated that the police parking is not for the City police officers but for the State Office Building and does not know of any reason that they have to be there. Stated that they are not being used and these spots are further away from the State Office Building then their own parking lot. Stated that if we are going to develop the downtown area, we need to have a place for people to park.

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Sena Peden-Sunflower Community Action-Video Cameras in police cars.

Sena Peden

Ms. Peden stated that she is a member of the Sunflower Community Action Northeast Chapter and would like to urge the City Council to approve and include in the upcoming budget the pilot program for cameras in police cars. Stated that the Council should care because of the Patterson case and other law suits regarding the Police Department. Stated that it would be beneficial to the City of Wichita and the citizens to have cameras in all of the police cars as soon as possible and make it a top priority. Stated that cameras would not be the answer to all of the problems with the Police Department, but it could be a small step to the beginning of some type of reconciliation with the citizens and accountability for the citizens and the police department. Stated that there will not be any room for doubt and that on June 2, 2005, she and her children were outside eating and the police came by to question them about a robbery that had taken place down the street and during that time, she was maced, her son beaten and her daughter called 911. Stated that after she called 911, her two daughters were arrested and denied assistance from EMS. Stated that all of this could have been documented if there were cameras in the police cars. Stated that the day after this happened she filed a complaint with the police officers at Professional Standards and the Citizens Review Board, which are places where people can go to file any complaints. Stated that our citizens need these cameras and need to be treated like citizens and not criminals.

Rickie Coleman-Sunflower Community Action-Concerns with Payday and Car Title Lenders.

Rickie Coleman

Ms. Coleman stated that she is with Sunflower Community Action and would like to speak to the Council about the Payday and Title Loan Systems. Stated that they are ruining our communities and the people who live in them and would like to request a moratorium. Stated that on June 10th a couple of the Council Members were invited to a meeting held by Sunflower Community Action and the reason that these Council Members were picked was because their areas have the most stores in them. Stated that they had a big meeting to make the community aware of what these businesses are doing and were there to educate and let people know that this can ruin their lives. Stated that these types of businesses are designed not to let you out. Stated that Loan Max hired 500 people at \$100.00 each and a free lunch to attend their meeting and they were told by the President of the company that they were customers of his and that he was paying them the \$100.00 because they had to take off work that day. Stated that they did not come to their meeting to speak but to disrupt their meeting. Stated that they showed a movie from the show 60 Minutes showing how Pay Day Loan Systems ruined people's lives and when the President saw that they were listening and paying attention, he insisted that they all leave. Stated that they have people that have come to them that have paid \$10,000 plus for a \$1,500.00 loan. Stated that these fees are to be paid every two weeks, is not applied to the balance and the balance has to be paid in one lump cash sum. Stated that the Bank Commissioner's Office and Legislatures are working on laws and rewriting them to regulate these companies. Asked the City Council to write a moratorium like what was done for adult entertainment, so that they cannot come into our City. Stated that the Deputy Bank Commissioner stated that he gets 16 applications a week to come to Wichita because of our laxed laws and they can come and make a lot of money and do not care about the people. Stated right now a person can go to everyone of these types of businesses in the City and get up to two loans and know people who have as many as 15 loans just to pay the other one off.

Mayor Mayans

Mayor Mayans advised Ms. Coleman to visit with the Legislatures to see if they would take up this issue as an interim committee discussion this summer so that they can have a bill pre-filed prior to the legislative session.

Council Member Martz

Council Member Martz stated that he and Council Member Brewer are on the Steering Committee with the National League of Cities and this subject has been discussed with their steering committee and others and there is some action being worked on right now at the national level to try and help this issue and that part of the concern he has is that he is not sure what City Government can do. Stated that this falls more on the line of state and federal rules and all they can do is help work on lobbying efforts at the national level to try and get it stopped, slowed down or changed. Stated that there are concerns regarding this issue and things are being done but will probably not happen as fast as we want.

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Gary Rebenstorf

Director of Law explained that under the Kansas Statutes this type of operation comes under the banking laws and the City has no jurisdiction or authority to legislate in the banking area so the Council would not be able to issue a moratorium.

CONSENT AGENDA

Council Member Fearey Council Member Fearey request that item 24 be pulled.

Motion----carried Mayor Mayans moved that Consent Agenda items 5-27D, excluding item 24 be approved in accordance with the recommended action shown thereon. Motion carried 7 to 0.

BOARD OF BIDS REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED JUNE 19, 2006.

Bids were opened June 16, 2006, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

Schweiter Park Tennis and Basketball Court Construction - west of Hillside, south of Kellogg. (472-84420/785056/395188) Does not affect existing traffic. (District I)

Trans Texas Tennis Inc. - \$177,245.18 (Base bid) \$58,788.00 (Add Alternate #1) \$7,840.00 (Add Alternate #22) \$243,873.18 (Total Bid)

Water Distribution System to serve Hoover Road & 21st Street North - north of 21st Street North, east of Zoo 89674/735067/470737) Traffic to be maintained during construction using flagpersons and barricades. (District V)

Mies Construction - \$833,755.00

Water Distribution System to serve Emerald Bay Addition - west of West Street, north of 21st Street North. (448-90161/735301/470972) Traffic to be maintained during construction using flagpersons and barricades. (District V)

WB Carter Construction - \$483,100.00

Water Distribution System, Phase 1 to serve Emerald Bay Addition - west of West Street, north of 21st Street North. (448-90162/735302/470973) Traffic to be maintained during construction using flagpersons and barricades. (District V)

Mies Construction - \$92,847.00

Storm Water Drain #269 to serve Clifton Cove Addition - south of 63rd Street South, west of Clifton. (468-84024/751421/485312) Does not affect existing traffic. (District III)

Mies Construction - \$449,899.05

Water Distribution System to serve Highland Springs 3rd Addition - south of Central, west of 135th Street West. (448-89829/735319/470990) Does not affect existing traffic. (District V)

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WBW Contractors - \$42,916.00

Nevada Circle to serve Blue Sky Addition - north of Douglas, west of West Street. (472-84363/765987/490104) Does not affect existing traffic. (District IV)

Kansas Paving Company - \$70,092.50

Motion--

--carried

Mayans moved that the contracts be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

PUBLIC WORKS DEPARTMENT/TRAFFIC MAINTENANCE DIVISION: Sidewalk Sweeper.

Key Equipment & Supply - \$27,450.00 (Group 2/Alternate bid) <- \$ 1,500.00> (Group 2/Option 1//Deduct) \$25,950.00 (Total net bid)

CWATER & SEWER DEPARTMENT/SYSTEM PLANNING DIVISION: Replace Consumer Service Lines – Planeview.

Utilities Plus - \$128,030.00* (Total net bid)
*Increase quantity to total of 118

WATER & SEWER DEPARTMENT/WATER DISTRIBUTION DIVISION: Concrete Pads.

Kansas Building Products – \$59,330.00* (Total base bid)
*Estimate – Contract approved on unit cost basis.

WATER & SEWER DEPARTMENT/SEWAGE TREATMENT DIVISION: Riding Front Deck Mower.

Maximum Outdoor Equipment & Service Inc. - \$36,591.00 (Total net bid)

PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: Furniture Re-upholstery – Central Library.

Mike's Custom Upholstery - \$29,125.00 (Total net bid)

Motion---carried Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

CMBS <u>APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:</u>

Renewal 2006 (Consumption off Premises)

Vasant Patel Food Mart 7101 East Lincoln

New Operator 2006 (Consumption off Premises)

Kashif A. Khan S&Z Group Inc. 802 North West Street

Motion----carried Mayans moved that the licenses be approved subject to Staff review and approval. Motion carried 7 to 0.

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PRELIM. ESTS. <u>PRELIMINARY ESTIMATES:</u>

- a) Storm Water Drain #288 to serve Whispering Lakes Estates Addition south of Harry, west of 159th Street East. (468-84143/751416/485307) Does not affect existing traffic. (District II) \$411.000.
- b) Water Distribution System to serve Auburn Hills 16th Addition south of Maple, west of 135th Street West. (448-90122/735316/470987) Does not affect existing traffic. (District V) \$209,000.
- c) Rosewood from the east line of Brookhaven to the west line of Lot 16, Block 4; Hazel Nut from the east line of Lot 28, Block 4 to the west line of Rosewood; Hazel Nut Circle from the east line of Rosewood to and including the cul-de-sac (Lots 26 through 31, Block 1); Rosewood Court from the west line of Rosewood to and including the cul-de-sac (Lots 21 through 26, Block 4) to serve Whispering Lakes Estates Addition south of Harry, west of 159th Street East. (472-84367/765980/490095) Does not affect existing traffic. (District II) \$289,000.
- d) The cost of construction of Lateral 1, Main 10, Northwest Interceptor Sewer to serve Northwest YMCA Addition north of 21st Street North, west of 135th Street West. (District V) (468-83957/744111/480-799) Total Estimated Cost \$94,536.
- e) The cost of construction of Lateral 7, Main 26, War Industries Sewer to serve Regency Park 3rd Addition south of 29th Street North, west of Greenwich Road. (District II) (468-84035/744133/480-821) Total Estimated Cost \$53,530.
- f) The cost of construction of Storm Water Drain #250 to serve The Waterfront Addition north of 13th Street North, east of Webb. (District II) (468-83950/751394/485-285) Total Estimated Cost \$292,900.
- g) The cost of construction of Storm Water Drain #199 to serve Woodland Lakes Estates 3rd Addition north of Harry, west of 127th Street East. (District II) (468-83592/751393/485-284) Total Estimated Cost \$431,360.
- h) The cost of construction of Lateral 5, Main 19, Southwest Interceptor Sewer to serve Northridge Plaza Addition north of 37th Street North, west of Ridge Road. (District V) (468-83451/744139/480-827) Total Estimated Cost \$302,450.
- i) The cost of construction of Storm Water Sewer #615 to serve Fox Ridge Addition north of 29th Street North, west of Tyler. (District V) (468-83998/751399/485-290) Total Estimated Cost \$147,630.
- j) The cost of construction of Storm Water Sewer #617 to serve Reed's Cove Addition south of 21st Street North, east of 127th Street East. (District II) (468-84029/751404/485-295) Total Estimated Cost \$106,220.

Motion--carried Mayans moved that the file be received. Motion carried 7 to 0.

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PETITION

CONSTRUCT A STORM WATER DRAIN IN CLIFTON COVE ADDITION, SOUTH OF 63RD STREET SOUTH, WEST OF CLIFTON. (DISTRICT III)

Agenda Report No. 06-0636

On November 15, 2005, the City Council approved a Petition to construct a storm water drain in Clifton Cove Addition. An attempt to award a construction contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district.

The project will serve a new residential development located south of 63rd St. South, west of Clifton.

The existing Petition totals \$502,000 with the total assessed to the improvement district. The new Petition totals \$659,000 with the total assessed to the improvement district.

This project will address the Efficient Infrastructure goal by providing drainage improvements necessary for a new residential development. It will also address the Economic Vitality and Affordable Living goal by facilitating new residential development that is vital to Wichita's continued economic growth.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Motion----carried Mayans moved that the Petition be approved; the Resolution adopted and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. 06-363

Resolution of findings of advisability and resolution authorizing improving Storm Water Drain No. 269 (south of 63rd Street South, west of Clifton) 468-84024, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

PETITION

<u>DRAINAGE IMPROVEMENTS IN FONTANA AND FONTANA SECOND ADDITIONS,</u> NORTH OF 29TH STREET NORTH, EAST OF 19TH STREET WEST. (DISTRICT V)

Agenda Report No. 06-0637

The Petition has been signed by one owner representing 100% of the improvement district.

The project will install stone riprap on the side slopes of four detention ponds in a new residential development located north of 29th St. North, east of 119th St. West.

The Petition totals \$110,000. The funding source is special assessments.

This project will address the Efficient Infrastructure goal by providing drainage improvements necessary for a new residential development. It will also address the Economic Vitality and Affordable Living goal by facilitating new residential development that is vital to Wichita's continued economic growth.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Motion----carried Mayans moved that the Petition be approved; the Resolution adopted and the necessary signatures authorized. Motion carried 7 to 0.

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RESOLUTION NO. 06-364

Resolution of findings of advisability and resolution authorizing improving Storm Water Drain No. 296 (north of 29th Street North, east of 119th Street West) 468-84196, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

ADVIS. BOARD MINUTES OF ADVISORY BOARDS/COMMISSIONS:

District III Advisory Board, February 1, 2006 Revised May 11, 2006
Deferred Compensation Board Quarterly Meeting, February 9, 2006
Wichita Employees' Retirement Board, February 22, 2006
Board of Electrical Appeals, March 14, 2006
Police & Fire Retirement Board, March 22, 2006
Wichita Airport Advisory Board, April 3, 2006
Board of Code Standards and Appeals, April 3, 2006
District V Advisory Board, April 3, 2006

Wichita Employees' Police & Fire Retirement Board, April 6, 2006 Wichita Employees' Police & Fire Retirement Board, April 10, 2006

Housing Advisory Board, April 19, 2006 Public Library Monthly Report, April 2006 District II Advisory Board, May 1, 2006 Wichita Public Library Board, May 16, 2006

Motion--carried Mayans moved that the file be received. Motion carried 7 to 0.

STREET CLOSURE CONSIDERATION OF STREET CLOSURES/USES.

There were no street closures to consider.

13TH ST. NORTH 13TH STREET NORTH FROM 135TH STREET TO 119TH STREET WEST. (DISTRICT V)UPPLEMENTAL.

Agenda Report No. 06-0638

On May 4, 2004, the City entered into an Agreement with Schwab-Eaton for designing 13th Street North from 135th to 119th Street West for a fee of \$117,800. On September 13, 2005, the City Council approved Supplemental Agreement No. 1, which requested Schwab-Eaton for a separate set of plans detailing both relocation of existing and construction of new water lines in the area of 135th Street West and 13th. The fee was \$9,500.

Schwab-Eaton was asked to make revisions to their project plans regarding the conversion of an existing 12" DICL line along 13th Street and along 135th Street. The revisions were made necessary due to revision of project plans for the proposed Main 4 project, which is soon to be let for bid. Schwab-Eaton was instructed asked to modify their plans to reflect the changes necessary to be able to tie-in with the elevations at the east end of the project. The proposed Supplemental Agreement provides for the additional design services.

Payment to Schwab-Eaton will be on a lump sum basis of \$2,750, and will be paid by Operating Revenues.

This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed to provide a viable transportation system for the community. It also addresses

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the Economic and Affordable Living goal by providing a public improvement critical for the private sector's development of the surrounding area.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion--

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

MAIN 4

MAIN 4, NORTHWEST INTERCEPTOR SEWER, EAST AND WEST OF 135TH STREET WEST, SOUTH OF 21ST STREET. (DISTRICT V)

Agenda Report No. 06-0639

On November 2, 2004, the City entered into an Agreement with Ruggles & Bohm, P.A. (R&B) for designing Main 4, Northwest Interceptor Sewer. The fee was \$46,400.

The project plans for the Main 4, Northwest Interceptor Sewer were nearly complete when it was determined that a gas line had been installed along the project route. It was necessary to have survey crews perform additional survey and the design section make modifications to the project plans as a result of the gas line installation. Also, a request from the Water and Sewer Department was made to modify the design of outside drops on manholes. At that request, Ruggles & Bohm were asked to prepare detail sheets for the revised outside drops to be used on the Main 4, NWI project. A request for additional fee was made to cover costs for the additional survey, design, and detail sheet preparation.

Payment to R&B for the Supplemental Agreement will be made on a lump sum basis of \$12,039.50, and will be paid by Water Utility.

This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of sewer improvements for the community. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion----carried Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

PLANEVIEW PARK

A PARKING LOT FOR THE PLANEVIEW PARK FOOTBALL AREA, EAST OF OLIVER, NORTH OF 31ST STREET SOUTH. (DISTRICT III)-SUPPLEMENTAL.

Agenda Report No. 06-0640

On January 26, 2006, the City entered into an Agreement with Certified Engineering Design, P.A. for designing a parking lot for the Planeview Park football area for a fee of \$8,100.

The Park Department has asked Certified Engineering to perform additional design work in Planeview Park. The additional work will be to design another parking lot for another playing field to the southerly end of the park. The supplemental fee will cover such design.

Payment to Certified Engineering will be on a lump sum basis of \$15,600 and will be paid by General Obligations Bonds.

This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of parking improvements in an existing neighborhood park.

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The Supplemental Agreement has been approved as to form by the Law Department.

Motion----carried Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

MICROFILM MICROFILM SERVICES CONTRACT.

Agenda Report No. 06-0641

The City of Wichita is in the process of converting from microfilm to a laserfiche document imaging system. Laserfiche is being implemented but more time is needed for training and conversion to laserfiche.

Discussions with Engineering, Planning, Municipal Court, Fire, Human Resources and Central Inspection indicate a continuing need for microfilm services for these departments. They have a large volume of paperwork to convert from microfilm to the new laserfiche document imagining system. These departments need more time to convert from microfilm to laserfiche.

The City has a contract with Microfilm Services, which expires June 30, 2006. It is recommended the City extend the existing contract for one year with an 8% increase to cover increasing production costs. The current annual estimated spending for city wide microfilming is \$127,000.

The City has adequate funds budgeted in the 2006 and 2007 budget for microfilm services.

This will impact the Internal Perspective by streamlining our business process. It should cost less by eventually having staff scan all records and improve the speed at which staff and citizens may access City records electronically.

The Department of Law will review and approve as to form the contract extension.

Motion----carried Mayans moved that a one-year contract amendment for Microfilm Services, Inc. be approved and the necessary signatures authorized. Motion carried 7 to 0.

GILBERT/MOSLEY

ENVIRONMENTAL MONITORING FOR THE GILBERT & MOSLEY REMEDIATION PROJECT. (DISTRICTS I, III AND VI)-SUPPLEMENTAL.

Agenda Report No. 06-0642

In accordance with an agreement between the City of Wichita and the Kansas Department of Health and Environment (KDHE), the city must conduct sampling and analysis of the groundwater and report its findings for the Gilbert and Mosley Remediation project. Previously, a sampling contract was competitively bid and awarded to Camp Dresser and McKee (CDM). Since awarding the contract, ES staff negotiated with KDHE to reduce the sampling requirements thus extending the service time of the CDM contract by one year (completed at year end 2005). In addition to a sampling and analysis contract, CDM performed a task called report writing in accordance with a separate CDM contract.

Staff has negotiated with CDM to complete one contract extension in the amount of \$69,065. This supplemental agreement will allow the City to continue monitoring services with CDM to cover two sampling, analysis and report events. The supplemental agreement reduces the sampling and reporting requirements from quarterly to semi-annual as approved by KDHE. The Supplemental Contract would also give the City an option to extend the contract for two additional sampling events with amount to be negotiated but not exceeding \$71,136.95.

The Contract is for \$69,065.00 that is included in the current year's budget of the Gilbert & Mosley Tax Increment Financing Fund. An additional extension will be evaluated at the end of this supplemental agreement but will not exceed \$71,136.95.

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This project addresses the goals for Safe and Secure Community, Ensure Efficient Infrastructure and Support Core Area and Vibrant Neighborhoods by continuing work on the Gilbert and Mosley Remediation Project.

The Law Department has approved the Contract as to form.

Motion--

Mayans moved that the supplemental agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

WATERMAIN

WATER MAIN TO ROCK ROAD AND K-254 WITH A MASTER METERING STATION. (DISTRICT II)

Agenda Report No. 06-0643

The 2006 Capital Improvement Program includes funding for water main replacement. The Staff Screening & Selection Committee selected Baughman for the design on May 15, 2006.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of a water main extension from the existing City of Wichita water system at the southeast corner of 53rd and Rock Road to a location north of US 254. The completed project will provide water service for the Kechi area.

Payment to Baughman will be on a lump sum basis of \$38,000 and will be paid by Revenue Bonds.

This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed to provide a viable water system for the community. It also addresses the Economic and Affordable Living goal by providing a public improvement critical for the private sector's development of the surrounding area.

The Agreement has been approved as to form by the Law Department.

Motion----carried Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

POWELL'S

<u>POWELL'S-WATER MAIN REPLACEMENT, WEST OF ST. FRANCIS, NORTH OF 13TH STREET.</u> (DISTRICT VI)

Agenda Report No. 06-0644

The 2006 Capital Improvement Program includes funding for water main replacement. The Staff Screening & Selection Committee selected Baughman for the design of a water main replacement in Powell's Addition on May 15, 2006.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of a water main replacement for the following streets: Sherwood, 15th to 16th, Arkansas from 15th to 16th, 15th from Sherwood to Broadway, 14th from Rochester to Fairview, C from Rochester to Waco, Topeka from 13th to 18th, 15th from Topeka to Emporia, and 16th from Topeka to Emporia. The total length of the water main replacement is approximately 9,900 feet.

Payment to Baughman will be on a lump sum basis of \$46,000 and will be paid by the Water Utility.

This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of water improvements for existing neighborhood.

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The Agreement has been approved as to form by the Law Department.

Motion----carried Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

CHANGE ORDER

EQUUS BEDS AQUIFER STORAGE AND RECOVERY PROJECT PHASE I.

Agenda Report No. 06-0645

On January 10, 2006, the City approved a Design/Build project with CAS Construction to construct a surface water treatment plant. On February 2, 2006, the City Council approved a Contract with Snodgrass Construction to construct facilities associated with Phase I of the Equus Beds Aquifer Storage and Recovery (ASR). The ASR project is a key component in the City's future water supply plan.

Phase I with Snodgrass Construction includes a surface water intake, four recharge and recovery wells and two recharge basins. The Design/Build project includes the construction of a 7 mgd surface water treatment plant that uses water captured by facilities of the Phase I project. As design work was being done, it was recognized that significant savings could be achieved if the recharge facilities using surface water could be separated from those using diversion well water through the use of an additional water line. An additional three miles of pipeline will be required to separate the recharge systems. Change Order No. 1 also includes increasing the depth of one of the recharge basins by four feet to increase the basin's recharging ability and the elimination of recharge wells located within the second recharge basin.

The original Contract was \$9,173,480. Change Order No. 1 will increase the Contract by \$862,934, or 9.4 percent to \$10,036,414. Funds are available in CIP W-549, Water Supply Plan, which has over \$26 million available in 2006.

Adding three miles of pipeline to separate the recharge systems will cost \$920,000, but separating facilities using surface water from diversion well water reduces construction costs by approximately \$3.5 million. Increasing the depth of one recharge basin will cost \$293,159 and eliminating recharge wells within the second recharge basin will result in a deduction of \$389,548.

The Change Order will ensure efficient infrastructure by providing reliable, compliant and secure utilities. The project assures adequate water supplies now and in the future, and is a critical component of the City's infrastructure.

The Law Department has approved the Change Order as to form.

Motion--

Mayans moved that the Change Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

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INTERCHANGE <u>KELLOGG-WOODLAWN INTERCHANGE.</u> (DISTRICT II)

Agenda Report No. 06-0646

On December 10, 2002, the City Council approved a construction contract with Sherwood Construction Company, Inc. to construct the Kellogg-Woodlawn Interchange. During construction of the project, a number of unforeseen items developed that should be addressed as a Change Order:

Pavement marking width was increased from 4" to 6" to comply with new KDOT standards for high volume roadways.

Soil material at two locations was unsuitable to support the new pavement and was removed and replaced.

Modifications were made to the storm water pump station to be compatible with the City's other storm water pump systems and to reduce ongoing maintenance costs.

A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

The cost of the additional work is \$103,004 with the total paid by a combination of Local Sales Tax (\$33,991) and State System Enhancement Funds (\$69,013). The original contract amount is \$53,152,398. This Change Order plus previous change orders represents 0.2% of the original contract amount.

This project addresses the Efficient Infrastructure goal by improving the traffic capacity and safety along a vital transportation corridor.

The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

Motion----carried Mayans moved that the Change Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

UNSAFE STRUC. REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES. (DISTRICT I)

Agenda Report No. 06-0648

On June 5, 2006, the Board of Code Standards and Appeals (BCSA) held a hearing on the following five (5) properties. These properties are considered dangerous and unsafe structures, and are being presented to schedule a condemnation hearing before the Governing Body.

Violation notices have been issued on these structures, however, compliance has not been achieved. Pre-condemnation and formal condemnation letters were issued and the time granted has expired. No action has been taken to repair or remove these properties.

Property Address	Council District
a. 1255 North Poplar	I
b. 1258 North Green	I
c. 1718 North Green	I
d. 2145 East Shadybrook	I
e. 1626 North Oliver	I

On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and

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Vibrant Neighborhoods: Continued revitalization of the Core Area. Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

These structures have defects that under Ordinance No. 28-251 of the Code of the City of Wichita shall cause them to be deemed as dangerous and unsafe buildings, as required by State Statute for condemnation consideration.

Mayans moved that the resolutions to schedule a hearing and place these matters on the agenda for a Hearing before the Governing Body on August 1, 2006 at 9:30 a.m. or as soon thereafter be adopted. Motion carried 7 to 0.

RESOLUTION NO. 06-358

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lots 49-51 Mona now Poplar Street, Fairmount Park Addition to Wichita, Sedgwick County, Kansas, known as 1255 North Poplar, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

RESOLUTION NO. 06-359

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lots 50-52 Green Street, Fairmount Park Addition to Wichita, Sedgwick County, Kansas, known as 1258 North Green, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

RESOLUTION NO. 06-360

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lots 32-34, Second Fairmount Orchards Addition to Wichita, Sedgwick County, Kansas, known as 1718 North Green, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

RESOLUTION NO. 06-361

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as Lot 2, Block 3, Builders Second Addition to Wichita, Sedgwick County, Kansas, known as 2145 East Shadybrook, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

Motion--

--carried

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RESOLUTION NO. 06-362

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as North 10 ft. Lot 33 - all Lots 34-35 Block 16, University Heights Addition to Wichita, Sedgwick County, Kansas, known as 1626 North Oliver, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

BNSF ROW

CLOSING DOCUMENTS FOR RAILBANKING OF BNSF RIGHT-OF-WAY FROM HYDRAULIC AVENUE TO BUTLER COUNTY LINE.

Agenda Report No. 06-0649

Following the application by the BNSF Railway Company to abandon its rail line from downtown Wichita to Andover, the City of Wichita applied to railbank this corridor under the provisions of the National Trails System Act. As a result, the City and BNSF agreed to a Railbanking and Donation Contract, dated April 18, 2005, that outlines the manner by which jurisdiction over this rail corridor would be transferred from the railroad to the City.

The documents that must be signed by the City are a Quitclaim Deed and a Bill of Sale. The Quitclaim Deed transfers BNSF's interests in the corridor to the City, subject to the limitations on its use by the City imposed by the National Trails System Act and a reservation that the corridor can be reactivated as a railine in the future. The Bill of Sale enables BNSF to demonstrate for tax purposes that it has donated their property interest to the City.

There is no direct financial consideration to the City in completing this transaction. However, the City does assume responsibility for maintenance of the right-of-way. Departments with those responsibilities have been notified and have incorporated any additional costs into their budgets.

Infrastructure. Completion of this transaction will ensure the preservation of right-of-way that is being used for City-owned utilities and will preserve existing drainage structures and patterns.

Law has reviewed the closing documents and determined that they are consistent with the previously approved Railbanking and Donation Contract.

Motion----carried Mayans moved to authorize the Mayor to sign the closing documents in accordance with the April 18, 2005, Railbanking and Donation Contract. Motion carried 7 to 0.

GOB/NOTE SALE

GENERAL OBLIGATION BOND AND NOTE SALE.

Agenda Report No. 06-0650

The City is planning to offer for sale two series of general obligation temporary notes totaling \$58,845,000 (Series 216 and 217) and two series of general obligation bonds (Series 786 and 786A) totaling \$11,495,000 for the purpose of providing interim and permanent financing for capital improvement projects of the City. The public sale of the bonds and notes is scheduled for 10:30 a.m. on July 11, 2006, at which time bids will be opened and the City Council will award the sale of bonds and notes to the bidders whose proposed interest rates result in the lowest overall cost to the City.

The City's Summer 2006 general obligation bond and note sale includes the following issues:

Temporary Notes

The proceeds from the sale of the Series 216 Renewal and Improvement Temporary Notes will be used to provide interim financing for City-at-large, improvement district projects and public improvements

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located within the East Bank Tax Increment Financing District. The Series 217 Taxable Renewal Temporary Notes will also be used to provide interim financing for improvements located within the East Bank Tax Increment Financing District.

Special Assessment Bonds

The proceeds from the sale of the Series 786 and 786A Bonds will be used to permanently finance neighborhood improvements located in special improvement districts. Special assessments have been levied against the property owners in the improvement districts for the purpose of paying all or a portion of the costs of such improvements, including the payment of principal and interest on Series 786 and Series 786A Bonds. The Special Assessment Bonds, Series 786, will be issued in the par amount of \$10,575,000. The Special Assessment Bonds, Series 786A, will be issued in the par amount of \$920,000.

The City of Wichita awards the sale of bonds and notes to the bidder with the lowest true interest cost, or "TIC". Using TIC to calculate the bids, accounts for the time value of money. The TIC is the rate that will discount all future cash payments so that the sum of their present value will equal the bond proceeds. Further, using the TIC calculation can potentially result in the City saving money because TIC does not ignore the timing of interest payments.

The Series 216 and 217 Temporary Notes will mature on February 8, 2007 and will be retired using the proceeds of both permanent financing bonds, renewal notes and cash.

The Series 786 Special Assessment Bonds will mature serially over 15 years with principal maturities structured to produce level annual payments of principal and interest. The Series 786 Bonds are payable from the collection of special assessments levied against benefiting properties, and if not so paid, from Citywide ad valorem taxes. The Series 786 Special Assessment Bonds will be callable in 2013 with a 1% call premium.

The Series 786A Special Assessment Bonds will mature serially over 20 years with principal maturities structured to produce level annual payments of principal and interest. The Series 786A Bonds are payable from the collection of special assessments levied against benefiting properties, and if not so paid, from Citywide ad valorem taxes. The Series 786A Special Assessment Bonds will be callable in 2016 with a 1% call premium.

This item impacts the Economic Vitality/Affordable Living and Internal Perspectives through the temporary and permanent financing of capital improvements and offering the City's debt obligations through competitive sale. The sale of temporary notes allows short-term financing of improvements that shall be permanently financed through the issuance of bonds or pay-as-you-go financing. The special assessment bonds are being issued on a reimbursement basis to finance project costs previously incurred.

The Law Department has approved the Resolution authorizing the sale of the series of bonds and notes and directing the publication and distribution of the Notices of Bond and Note Sale (prepared by the City's Bond Counsel as required by law).

Mayans moved that the resolution authorizing general obligation bond and note sales be adopted; the submittal of the Preliminary Official Statement upon completion be approved and the publication of the Notices of Sale be authorized. Motion carried 7 to 0.

RESOLUTION NO. 06-365

A Resolution of the City of Wichita, Kansas, authorizing and providing for the public sale of General Obligation Renewal and Improvement Temporary Notes, Series 216, general Obligation Renewal Temporary Notes, Series 217 (taxable under federal law) and General Obligation Bonds, series 786 and 786A; and providing for the giving of notice of the public sale, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

Motion--

--carried

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HOME CHDO

HOME CHOO HOUSING DEVELOPMENT FUNDING AGREEMENTS. (DISTRICTS I, III, IV, V, VI)

Agenda Report No. 06-0651

On March 21, 2006, the City Council approved an allocation of \$265,584 in HOME funding for housing development projects to be carried out by three of the City's designated Community Housing Development Organizations (CHDO's), as part of the Consolidated Plan funding process. The following allocations were approved:

- \$148,835 for Mennonite Housing Rehabilitation Services, Inc. (MHRS)
- \$29,917 for Community Housing Services of Wichita/Sedgwick County, Inc. (CHS)
- \$86,832 for Power CDC.

The City Council also approved an allocation of \$179,448 for the CHDO Boarded-up House Program. This program provides a means for CHDO's to obtain zero-interest, forgivable loans to address blighted housing in the City's Local Investment Areas (LIA's). City-approved CHDO's with experience in single-family housing development are eligible for participation in the program, and may utilize the funding to acquire boarded-up or otherwise blighted structures for the purpose of rehabilitation or demolition and construction of a new home.

CHS is in the process of developing three new single-family homes with prior-year HOME CHDO funding. The funding was provided to CHS to purchase homes or sites and rehabilitate or construct new single-family housing in the City's Northeast or North Central Local Investment Area. Thusfar, CHS has utilized the funding to subsidize construction of two homes, and to acquire a site for a third home. The funding agreement expires June 30, 2006. CHS has requested extension of the agreement in order to complete the projects. Approximately \$31,000 in HOME CHDO set-aside funding remains.

Five homes are currently under development and nearing completion, with prior-year Boarded-up House Program funding. The funding was approved during the 2004-2005 Consolidated Plan funding process, and the funding agreement expires June 30, 2006. Staff is requesting extension of this funding agreement in order to provide for coverage of final expenses to be submitted for these projects. Approximately \$13,775 in HOME funding remains.

Staff has identified a total of \$10,898.79 in 2004 HOME CHDO set-aside funding remaining from a completed CHDO development project. Since the funding is insufficient to complete an additional project, and may only be used to fund CHDO-developed projects, staff is requesting re-allocation of this funding to the 2006-2007 CHDO funding allocations, on a pro rata basis based on 2006 allocations, in order to supplement funding levels.

In accordance with funding allocations previously approved by the City Council and adding the proration of prior-year unspent funding, Housing and Community Services is requesting approval for the following HOME funding agreements:

- \$154,942.68 for MHRS, in order to partially finance the development of at least five new homes in the City's Local Investment Areas;
- \$31,144.20 for CHS, in order to partially finance the construction of at least one new home or rehabilitation of one home in one of the six local investment areas;
- \$90,395.91 for Power CDC to partially finance the development of at least three new homes in the City's Northeast Local Investment Area;
- \$179,448 for the 2004-2005 Boarded-up House Program. MHRS, CHS, Power CDC and Wichita Indochinese Center, Inc., will be parties to the agreement;
- Extension of the 2004 CHS HOME funding agreement to December 31, 2007, and the 2004 Boarded-up House funding agreement to June 30, 2007, in order to expend remaining funding and to allow sufficient time to complete projects.

All homes constructed or rehabilitated with HOME funding will be sold to income-eligible, owner-occupant families receiving down payment and closing costs assistance through the City's HOMEownership 80 Program.

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Total project cost of the three new CHDO housing development projects and the Boarded-up House Program is estimated to be \$1,400,000. HOME funding may be utilized to cover the costs involved in acquisition, rehabilitation and/or construction, site improvements, developer fees, and when necessary, demolition, for 14 homes. Each CHDO will leverage HOME funds with private sector construction loans or other financing. CHDO's participating in the Boarded-up House Program will also leverage HOME funds with private sector construction loans.

Projects to be funded under the subject HOME contracts will contribute to the goal of Economic Vitality and Affordable Living.

All funding agreements referenced herein, have been approved as to form by the City Law Department. HOME regulations require completion of HOME-eligible projects on sites purchased with HOME funds. With the exception of the funding allocated for the Boarded-up House Program, the CHDO project funding is provided as part of the City's mandatory 15% set-aside for eligible CHDO's.

Motion--

--carried

Mayans moved that the HOME funding agreements for MHRS, CHS and Power CDC, the new funding agreement for the Boarded-up House Program, the contract amendments for the CHS and Boarded-up House prior-year funding agreements be approved and the necessary signatures authorized. Motion carried 7 to 0.

HUD EDI

EDI SPECIAL PURPOSE GRANT-WATERWALK. (DISTRICT I)

Agenda Report No. 06-0652

The City previously requested \$1.5 million dollars in U.S. Department of Commerce, Economic Development Administration (EDA) funds to pay for streets and related infrastructure for the WaterWalk project. This request was not approved.

On April 26, 2006, the City was notified by the U.S. Department of Housing and Urban Development (HUD) that the City had received a grant in the amount of \$247,500 for the downtown WaterWalk revitalization project.

These grant funds require no local match and are projected to be used to fund a portion of the cost of the public amphitheater costs. In order to obtain the grant funds, the City must submit a grant application to HUD and complete an Environmental Review of the project. The Environmental Review is being undertaken by the Metropolitan Area Planning Department. If approved, the Environmental Review will be published permitting 15 days for public comment before grant funds can be released. The Environmental Review has to be sent to HUD for approval.

The grant application totals \$247,500. No local funds are required.

The Internal Perspective is advanced with the receipt of the HUD EDI Special Purpose grant funds, which will offset some of the loss of the \$1.5 million dollar Economic Development Administration (EDA) grant, originally sought for the WaterWalk project.

The City must submit one original and three copies of the grant application to HUD before December 31, 2006, or the City will loose the grant funds. Three copies of the HUD EDI Special Purpose grant must be submitted to the HUD Headquarters office in Washington D.C. and one copy must be submitted to the HUD regional office in Kansas City.

Motion----carried Mayans moved that the grant application be approved and the necessary signatures authorized. Motion carried 7 to 0.

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HOME FUNDING <u>ALLOCATION OF HOME FUNDING.</u>

Agenda Report No. 06-0653

On March 8, 2005, the City Council approved an allocation of \$182,620 in HOME funding for administration of the City's HOME Program. The HOME Program administration budget includes staff salaries, benefits, indirect administrative charges, Information /Technology Department charges, travel and training expenses, audit costs, and other expenses associated with management of the City's HOME Program.

The HOME Program has \$292,120 in program income receipts from the 2004-2005 and 2005-2006 program years. The program income was received in the form of loan repayments and repayments involving completed projects. HOME Program regulations permit the City to utilize 10% of program income receipts for HOME Program administration expenses. Housing and Community Services is requesting allocation of \$29,212 (10% of program income) for HOME Program administration.

Funding allocated for HOME Program administration expenses will be used to offset staff salaries and benefit expenses, contractual services and commodities expenses, as permitted under the HOME Program regulation.

Funding of HOME Program administration provides for management and oversight of HOME-funded projects that contribute to the goal of Economic Vitality and Affordable Living.

The use of 10% of program income expenditures for HOME Program administrative expenses is permitted under section 92.207 of the HOME Program regulation.

Motion----carried Mayans moved that the allocation of HOME funding be approved and the necessary signatures authorized. Motion carried 7 to 0.

EVERGREEN

LEASE OF SPACE AT EVERGREEN RECREATION CENTER TO USD 259. (DISTRICT VI)

Agenda Report No. 06-0654

Unified School District 259 wishes to lease 2,122 square feet in the Evergreen Recreation Center from the City of Wichita in conjunction with the early childhood program at Cloud Elementary School.

The lease term on each lease is one year with nine one-year options. The lease term starts July 1, 2006. Base rent is \$748 per month. This amount approximates the operating costs for the leased space and will be adjusted upward or downward annually based on actual operating results.

The payments received from the lease will be used to partial offset the operating costs of the facility.

Approval enhances the quality of life by increasing the educational services available to the community.

The Law Department has approved the lease as to form.

Motion----carried Mayans moved that the Lease Agreements be approved and the necessary signatures authorized. Motion carried 7 to 0.

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GREAT PLAINS

APPROVAL OF THE GREAT PLAINS NATURE CENTER, MEMORANDUM OF
AGREEMENT BETWEEN THE U.S. FISH AND WILDLIFE SERVICE, THE KANSAS
DEPARTMENT OF WILDLIFE AND PARKS AND THE CITY OF WICHITA. (DISTRICT I)

Agenda Report No. 06-0655

The Great Plains Nature Center is located at 6232 E. 29th St. North. The U.S. Fish and Wildlife Service (Service), The Kansas Department of Wildlife and Parks, (State) and the City of Wichita (City) have compatible goals in providing interpretive and environmental education opportunities to the public. All three agencies have combined services to provide excellent opportunities for the public to develop an appreciation for wildlife, the environment and a sound stewardship of natural resources.

This Memorandum of Agreement (MOA) is intended to supersede the prior MOA between the Service, State and City, executed by such entities on May 5, 1996, October 15, 1996 and October 21, 1996, respectively. The latest MOA is slated to expire on December 31, 2006. The Service provided contractual oversight of the exhibit and interpretive display construction. The Service will continue to provide full-time staff on-site for interpretation and education.

The State funded construction of the exhibits and interpretive displays, has provided furnishings and will continue to provide annual building maintenance and operation for all three agencies, and will continue to provide a building manager and staff in-place for interpretation and education.

The City provided access and exterior facility development and will continue to provide annual maintenance not related to the building to integrate the Center with Chisholm Creek Park. The City will continue to provide staff members at the Center.

Continue to provide for the annual landscape operating and maintenance of the site and the adjacent park.

The MOA will impact the Quality of Life Goal by providing nature opportunities and environmental education to the citizens.

Law has approved the MOA as to form.

Motion----carried Mayans moved that the Memorandum of Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

(Item 24) PURCHASE OPTION

PURCHASE OPTION, INTEGRATED HEALTHCARE SYSTEMS, INC. (DISTRICT II)

Agenda Report No. 06-0656

On November 1, 2005, the City Council approved the issuance of \$16,229,000 in Industrial Revenue Bonds, Series IV, 2005, to Integrated Healthcare Systems, Inc., for the benefit of Wichita Clinic P.A. The bonds were used to finance the cost of acquiring, constructing, and equipping a medical office building and ambulatory surgical center. The Bonds are secured, in part, by a Lease Agreement with Integrated Healthcare Systems, Inc. ("Tenant").

Under the provisions of the Lease Agreement the Tenant has the option, if all outstanding bonds and Trustee Fees have been paid, to purchase the facility from the City of Wichita for the sum of \$1,000. The City received notice from the Tenant's Counsel of the Company's to exercise its purchase option.

Under the terms of the Lease, the City is required to convey the personal property securing the IRB issue to the Tenant, once the Tenant has paid the purchase price and other considerations as listed under the provisions of the Lease Agreement, including the payment of all outstanding bonds. The Series IV, 2005 Bonds will mature by their terms on July 1, 2006. The City has received Trustee certification that the Bonds will be fully paid on July 1, 2006, and it is now appropriate for the City to deliver the

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instruments needed to deed the bond-financed property back to Integrated Healthcare Systems, Inc. and terminate the IRB lease. The City has already received payment of the \$1,000 purchase option price.

The purchase price is \$1,000 and other considerations as listed under the provision of the Lease Agreement to redeem and retire all outstanding bonds. This price includes without limitations, principal, interest, redemption premium, and all other expenses of redemption, and trustee fees, but after the deduction of any amounts described and provided for in the Lease Agreement and available for such redemption.

The Economic Vitality of the community is being enhanced with the improvement of quality healthcare services delivered.

The City is contractually bound to convey the IRB Project property to the Tenant by special warranty deed, once all the conditions established in the Lease have been met. The City Attorney's Office has approved the form of the Resolution to authorize the execution of the Special Warranty Deed and the Termination of Lease Agreement, and the delivery of such documents following satisfaction of applicable conditions.

Council Member Fearey

Council Member Fearey stated that she would be abstaining due to a conflict of interest.

Motion--

Mayans moved that the Resolution approving the Special Warranty Deed, Bill of Sale and the Termination of Lease Agreement be adopted and the necessary signatures authorized. Motion carried 6 to 0, (Fearey abstained).

--carried

RESOLUTION NO. 06-366

A Resolution authorizing the City of Wichita, Kansas, to convey certain real property to Integrated Healthcare Systems, Inc., and prescribing the form of and authorizing the execution and delivery of certain documents in connection therewith, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Gray, Martz, Schlapp, Skelton, and Mayans; (Fearey abstained)

MOU

MEMORANDUM OF UNDERSTANDING WITH THE MENTAL HEALTH ASSOCIATION.

Agenda Report No. 06-0657

The Access to Jobs program provides rides to and from work for low-income workers. Since the start of the program in October 2000, Access has provided 506,603 rides. By entering into an interagency agreement with the Mental Health Assoc., Wichita Transit estimates 1,200 more rides a year to low-income workers. This is the standard Memorandum of Understanding that we use with agencies that want to purchase rides through the Access program. This MOU is a renewal. We have been providing rides for Mental Health Assoc. clients since January of 2003.

Part of the Access to Jobs grant is to provide half the cost of the rides that agencies offer low-income clients when they are trying to enter or re-enter the work force. The other half of those expenses are borne by the agency.

The Access to Jobs rides will be purchased with grants from FTA (50%) and from the Mental Health Assoc. (50%). No city funds will be involved in the Access rides. The Finance Department has approved the MOU.

The MOU impacts the goal, "Ensure Efficient Infrastructure." It impacts the indicator "Maintain safe and dependable transportation systems." Entering into this MOU, will allow us to transport more low – income clients to work and back in a safe, cost effective and dependable manner.

The City's Law Department has approved the MOU prior to execution as to form.

Motion----carried Mayans moved that the Memorandum of Understanding be approved and the necessary signatures authorized. Motion carried 7 to 0.

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LEGAL SERVICES LABOR NEGOTIATIONS CONSULTANT LEGAL SERVICES.

Agenda Report No. 06-0658

The City of Wichita employs approximately 3,300 employees and has 5 union contracts, with four labor organizations: IAFF, FOP, SEIU and Teamsters. The City will meet and confer in 2006 with the Fraternal Order of Police and International Association of Firefighters Unions, and SEIU and Airport Teamsters in 2007 for future year or years labor contracts. A consultant familiar with public sector negotiations and issues will be of assistance to the City with such negotiations.

A Request for Proposals was promulgated and three law firms responded with proposals to be the City's Labor Negotiation Consultant. The responses were referred to the Labor Negotiation Consultant Review Committee for review. The Committee is comprised of the City Manager, Assistant City Manager, Public Information Officer, Human Resources Director, Employee Relations Officer, Finance Director, Fire Chief, Deputy Police Chief, Director of Water and Sewer Department, and the City Attorney. The Labor Negotiation Consultant Review Committee interviewed all three of the law firms and herewith submits its recommendation to the City Council.

The City seeks to employ qualified attorneys to provide professional consultation and legal services in connection with union negotiations. The selected attorney/firm will act as a consultant and advisor on an as needed basis and provide professional consulting services to the City as required and requested to accomplish the negotiation of union contracts. The Labor Negotiation Consultant Review Committee recommends the team of the McAnany, VanCleave and Phillips law firm and Frank Ojile as the law firm team that would provide the greatest benefit to the City as Labor Negotiation Consultant. The recommendation of the team of the McAnany firm and Frank Ojile is based on their municipal labor negotiation experience, handling of conflicts of interest, record of professionalism and quality legal services, accessibility and responsiveness to clients, understanding of the City's contract objectives, experience and expertise of the firm in labor negotiation and municipal labor law, the quality of professional assigned staff, adequacy of resources, ability to provide labor negotiation consulting services on a timely basis, a favorable fee structure, and additional information obtained in the interview process.

An agreement outlining the services, compensation schedule and expenses for the City's Labor Negotiation Consultant will be negotiated with the firm selected by the City Council.

The Department of Law will draft the Agreement for Professional Services for the City's Labor Negotiation Consultant.

Provide a Safe and Secure Community.

Motion--

--carried

Mayans moved that the team of McAnany, VanCleave and Phillips law firm and Frank Ojile as the City's Labor Negotiation Consultant be selected and to authorize the staff to negotiate an Agreement for Professional Services to be returned to the Council for approval. Motion carried 7 to 0.

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ORDINANCES SECOND READING ORDINANCES: (FIRST READ JUNE 13, 2006)

a) <u>Creation of Chapter 3.11 to establish a process for permitting special events, amendments to Sections 9.04.030 and 9.04.190 regarding community events in city parks and amendments to Sections 10.04.130, regarding street usage to allow obstructions associated with approved community events.</u>

ORDINANCE NO. 47-046

1. An Ordinance creating Chapter 3.11 of the Code of the City of Wichita, Kansas, pertaining to community events, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

ORDINANCE NO. 47-047

2. An Ordinance amending Sections 9.04.030, and 9.04.190 of the Code of the City of Wichita, Kansas, pertaining to conduct in parks and repealing the originals of 9.04.030, and 9.04.190, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

ORDINANCE NO. 47-048

- 3. An Ordinance amending Section 10.04.130 of the Code of the City of Wichita, Kansas, pertaining to obstructing streets and sidewalks and repealing the originals of said section, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.
- b) <u>DR2005-32-Proposed Amendments to the Wichita-Sedgwick County Unified Zoning Code</u> and Title 26 of the Code of the City of Wichita pertaining to Manufactured Home Parks.

ORDINANCE NO. 47-049

1. An Ordinance providing amendments to Section III1B.d.(1), Section III-B.10.d.(4)(a), Section III-B.10.d.(4)(b), Section III-B.10.f.(2), Section III-E.1., and Section IV-A.4., and creating Section IV-B.3.a.(1) and Section VII-G.2.g. of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition), as adopted by reference in City of Wichita Code Sec. 28.04.010 by Ordinance No. 44-975, dealing with manufactured homes, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 5to 2. Yeas, Gray, Martz, Schlapp, Skelton, and Mayans; (Nays, Brewer, Fearey).

ORDINANCE NO. 47-050

2. An Ordinance amending 26.04.010, 26.04.020, 26.04.030, 26.04.040, 26.04.041, 26.04.060, 26.04.070, 26.04.080, 26.04.120, 26.04.135 and 26.04.200, creating Sections 26.04.035, 26.04.036, 26.04.038, 26.04.115, and 26.04.117 of the Code of the City of Wichita, Kansas, and repealing the originals of sections 26.04.010, 26.04.041, 26.04.042, 26.04.043, 26.04.060, 26.04.070, 26.04.080, 26.04.119, 26.04.120, 26.04.135 and 26.04.200, of the Code of the City of Wichita pertaining to mobile homes and mobile home park regulations, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 5 to 2. Yeas, Gray, Martz, Schlapp, Skelton, and Mayans; (Nays, Brewer, Fearey).

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c) Amendments to Electrical Code, Title 19.

ORDINANCE NO. 47-051

An Ordinance amending Sections 19.04.090, 19.08.020, 19.08.030, 19.08.180, 19.12.010, 19.16.060, 19.16.090, 19.16.100, 19.16.110, 19.22.040, 19.22190, 19.22.240, 19.22.280, 19.24.020, 19.24.070 and 19.24.080 of the Code of the City of Wichita, Kansas, and repealing the originals thereof; creating Section 19.08.028; repealing Sections 19.16.010, 19.16.020, 19.16.030, 19.16.040, 19.16.050, 19.16.070; all pertaining to the Electrical Code of the City of Wichita, Kansas, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

d) <u>A06-15R - generally located northwest of 53rd Street North and Meridian Avenue.</u> (District VI)

ORDINANCE NO. 47-052

An Ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans. (A06-15)

NEW BUSINESS

LEE AEROSPACE

REQUEST FOR LETTER OF INTENT FOR INDUSTRIAL REVENUE BONDS, LEE AEROSPACE, INC. (DISTRICT II)

Allen Bell

Economic Development Administrator reviewed the item.

Agenda Report No. 06-0659

On March 16, 1999, the City Council approved the issuance of Industrial Revenue Bonds in an amount of \$3.5 million and a five-plus-five year 100% tax exemption on bond-financed property to Lee Aerospace, Inc. Proceeds from the bond issue were used to acquire property and construct a new facility including 30,000 s.f. for manufacturing space and 8,000 s.f. for office space. On December 2, 2003, City Council approved the issuance of Industrial Revenue Bonds in an amount of \$1.2 million and a five-plus-five year 100% tax exemption to Lee Aerospace. Lee Aerospace, Inc. (Lee Aerospace) is now planning to expand its plant space and requests the issuance of a six-month Letter of Intent for IRBs in the amount not-to-exceed \$2,500,000.

Lee Aerospace, Inc., located at 9323 E. 34th Street North in northeast Wichita, is a local corporation founded in 1989. Lee Aerospace is a leading manufacturer of unheated windshields, cockpit side windows, cabin windows, wing leading edge and spar assemblies, control wheels, and sun visor assemblies for the general aviation and corporate jet market. Primary customers are Boeing, Raytheon, Cessna, Spirit AeroSystems, and Bombardier Learjet.

Lee Aerospace has the capabilities to design, develop, test, and manufacture aircraft windows and sheet metal sub-assemblies. Designs can be produced from concept to production in virtually any size configuration of single-ply or multi-ply flat, curved or compound contoured aircraft windows. Lee Aerospace brings a unique service to the aircraft industry that has been a vital part of the Wichita community for the past several years.

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Lee Aerospace was acquired in 1999 by The Triumph Group, an aerospace conglomerate with headquarters in Wayne, Pennsylvania and over 30 affiliates nationwide. The association with The Triumph Group has provided Lee Aerospace with the opportunity to expand and diversify its product line and to expand its role as an out-sourcing supplier to the aviation industry.

Bond proceeds will be used to construct a new facility including 40,000 s.f. for manufacturing space on land already owned by an entity related to the company. Lee Aerospace currently employs 115 people and plans to add 50 new jobs over a five-year period, at an average wage of \$35,65 per year.

An analysis of the uses of project funds is:

Building and Improvements \$2,450,000 Landscape 50,000 Total Cost of Project \$2,500,000

The firm of Kutak Rock LLP will serve as bond counsel in the transaction. The Bonds will be privately placed with the company's principal bank. Lee Aerospace agrees to comply with the Standard Letter of Intent Conditions. The company has re-engaged the services of Hutton Construction to serve as general contractor. Hutton was chosen in 1999 to construct the company's headquarters and plant, after having advertised in the Wichita Eagle that the work of general contractor was available. Because the current project is considered a continuation of the original master plan, the company did not advertise for a general contractor this time. They did, however, advertise for sub-contractors.

Lee Aerospace, Inc. agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. Under the City's Economic Development Incentive Policy, the Company qualifies for a 100% five-plus-five-year tax exemption on property purchased with bond proceeds.

The estimated first year's taxes on Lee Aerospace's proposed \$2,500,000 expansion would be \$70,910, on real property improvements, based on the 2005 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) \$70,910 of new taxes from the real property tax rolls. The tax exemption would be shard among the taxing entities as follows: City - \$19,936; County/State - \$18,911; and USD 375 - \$32,063.

In addition, the project will qualify for a sales tax exemption on bond-financed purchases. The estimated amount of exempted sales taxes is \$91,250, including \$78,750 state sales tax and \$12,500 county sales tax.

The cost/benefit analysis based on the fiscal and economic impact model of the Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

City of Wichita 1.95 to one Sedgwick County 1.33 to one USD 375 1.00 to one State of Kansas 7.77 to one

Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption and sale tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

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Bond documents needed for the issuance of the bonds will be prepared by bond counsel. The City Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Schlapp moved that the public hearing be closed; a Letter of Intent to Lee Aerospace, Inc. for Industrial Revenue Bonds in an amount not to exceed \$2,500,000, subject to the Standard Letter of Intent Conditions for a term of six-months be approved; a 100% tax abatement on all bond-financed property for an initial five-year period plus an additional five-years following City Council review be approved and the necessary signatures authorized. Motion carried 7 to 0.

--carried

SELF-HELP

AGREEMENT WITH WICHITA STATE UNIVERSITY SELF-HELP NETWORK TO CONTINUE WORK WITH THE WEST 21ST STREET NORTH COMMUNITY DEVELOPMENT CORPORATION. (DISTRICT VI)

John Schlegel

Planning Director reviewed the item.

Agenda Report No. 06-0660

Under its previously approved agreement with the City, the Self-Help Network has been assisting the West 21st Street North Community Development Corporation (CDC) Steering Committee to complete its application to the Internal Revenue Service for non-profit status, to recruit its board of directors, to develop a work program, and to begin the process of securing funding beyond that which the City has committed. That contract expired at the end of May.

The CDC Steering Committee has made tremendous progress as a result of the Self-Help Network's assistance and would like to have the agreement continued until the new CDC is functioning on its own. They are concerned that they will lose the momentum that they have achieved. They are asking that the City Council fund an additional agreement for another year (to the end of May 2007) with the Self-Help Network for a total of \$60,000. It is proposed that \$35,000 would come from FY 2006 economic development funds and the remaining \$25,000 from FY 2007 economic development funds. The Agreement would allow the Self-Help Network to assist the CDC to complete and submit its application to the IRS, to finish the recruitment and orientation of the new CDC's Board of Directors, and to provide a grants writer who can help the CDC secure funding for its operations and additional capital for its projects.

The West 21st Street Community Development Corporation can be an important means by which the recommendations of the 21st Street North Corridor Revitalization Plan are implemented. It has made significant progress in the past year and is on the verge of becoming an effective CDC. This continuing assistance by the Self-Help Network will help assure that outcome.

The total cost of the contract extension is \$60,000, to be spread over two fiscal years. \$35,000 would come from FY 2006 economic development funds and the remaining \$25,000 from FY 2007 economic development funds.

Economic Vitality and Affordable Living. This action by the City Council will help the West 21st Street North CDC become an effective means by which the goals of the 21st Street North Corridor Revitalization Plan can be achieved.

The proposed Agreement with the Self-Help Network has been reviewed by the Law Department and approved as to form.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

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Mr. Cruz stated that he is with the 21st Street Business Association and that the Self-Help Network is a Ron Cruz

very professional organization and was a lot of help. Stated that they are a great asset to this

community.

Motion--Fearey moved that the proposed Agreement with the Wichita State University Self-Help Network

be approved and the necessary signatures authorized. Motion carried 7 to 0.

SECTION 11.28.155 AMENDMENTS TO SECTION 11.38.155 OF THE CODE OF THE CITY OF WICHITA,

KANSAS, PERTAINING TO DRIVING A COMMERCIAL VEHICLE WHILE UNDER THE

INFLUENCE OF ALCOHOL AND/OR DRUGS.

Gary Rebenstorf Director of Law reviewed the item.

(Council Member Gray momentarily absent)

Agenda Report No. 06-0661

The Kansas Legislature, through the passage of HB 2916, amended the penalty for driving a Commercial Vehicle While Under the Influence of Alcohol and/or Drugs in violation of K.S.A. 8-2,144. The statute was amended to clarify that the penalties for violation coincide exactly with those for Driving Under the Influence of Alcohol and/or Drugs, contrary to K.S.A. 8-1567 (non-commercial vehicle), and escalate with each subsequent conviction throughout a person's lifetime.

The amendments to 11.38.155 must be passed, in order to comply with the mandates of HB 2916 amending K.S.A. 8-2, 144. Municipal criminal ordinances cannot be less restrictive than state criminal statutes, and without this amendment, the law could be interpreted as providing for a lesser penalty than that specified in HB 2916.

Provide a Safe and Secure Community. This amendment will allow the Police Department and Law Department to continue to charge and prosecute violations of driving a commercial vehicle while under the influence of alcohol and/or drugs.

The City of Wichita Law Department has drafted and approved the amended ordinance as to form.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Mayans moved that the ordinance be placed on first reading and the necessary signatures authorized

Motion carried 7 to 0.

ORDINANCE

An ordinance amending Section 11.38.155 of the Code of the City of Wichita, Kansas, pertaining to driving a commercial vehicle while under the influence of alcohol and/or drugs and the penalties therefore, and repealing the original of said Section, introduced and under the rules laid over.

Motion--

--carried

--carried

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SEC. 11.92.070

<u>CREATION OF NEW SECTION 11.92.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO PROSECUTION OF JUVENILE TRAFFIC OFFENDERS IN MUNICIPAL COURT.</u>

Gary Rebenstorf

Director of Law reviewed the item.

(Council Member Schlapp momentarily absent)

Agenda Report No. 06-0662

In HB 2706, the Kansas Legislature expanded the definition of "traffic offense" in the traffic code to include driving without proof of insurance, thereby allowing juveniles age 14 and over who violate this provision to be prosecuted as adults in either municipal court or the district court rather than be prosecuted under the Juvenile Offenders Code.

The proposed ordinance is designed to clarify the law regarding prosecution of juveniles in municipal court. While most of the ordinance has been a part of state statute for quite a few years, the provisions therein have never been made a part of the Wichita City Code.

Provide a Safe and Secure Community. This amendment will assist the Police Department and Law Department in charging and prosecuting juvenile traffic offenders for prosecution in the Wichita municipal court. It will also allow the prosecution of juveniles who operate a motor vehicle without liability insurance.

The City of Wichita Law Department drafted and approved the proposed ordinance as to form.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion----carried Mayans moved that the ordinance be placed on first reading and the necessary signatures authorized. Motion carried 7 to 0.

ORDINANCE

An Ordinance creating new Section 11.92.070 of the Code of the city of Wichita, Kansas, pertaining to the prosecution of juvenile traffic offenders in the municipal court, authorized dispositions, and the definition of traffic offense, introduced and under the rules laid over.

SEC 4.04.017

CREATION OF NEW SECTION 4.04.017 AND AMENDING SECTIONS 4.04.025 AND 4.16.130 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO MINORS POSSESSING, CONSUMING, PURCHASING OR OBTAINING ALCOHOLIC BEVERAGES.

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Report No. 06-0663

The Kansas Legislature, through the passage of HB 2916, has amended the statute prohibiting minors from the possession, consumption or purchase of alcoholic beverages, providing that a person under 21 years of age could be requested to submit to a preliminary screening breath test if a law enforcement officer has reasonable grounds to believe the person has alcohol in their body. The results of the test or a refusal to submit to the test would be admissible in court but would not be per se proof of a violation. The proposed ordinance combines the current ordinances dealing separately with alcoholic liquor and cereal malt beverage into one ordinance for ease of enforcement. Finally, the Kansas Legislature has imposed certain mandatory penalties for this activity that have been incorporated into the proposed amendment.

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> The proposed amendment will provide for easier enforcement of the prohibition against minors possessing, consuming or purchasing alcoholic beverages by combining the two separate ordinances that currently exist. Further, the provision allowing law enforcement to gather evidence of violations through the use of a preliminary breath screening test will give the Police and Prosecutors an added enforcement tool. Finally, the amendments imposing the penalties for violation of this ordinance must be passed in order to comply with the mandates of the Legislature. Municipal criminal ordinances cannot be less restrictive than state criminal statutes.

> Provide a Safe and Secure Community. This amendment will allow the Police Department and Law Department to continue to charge and prosecute violations of the law prohibiting the possession, consumption, or purchase of alcoholic beverages by minors. Enforcement will be enhanced by the addition of the preliminary breath screening test for violations as well as combining the violations into one ordinance.

The City of Wichita Law Department drafted and approved the proposed ordinance as to form.

Mayor Mayans inquired whether anyone wished to be heard and no one appeared. Mayor Mayans

Motion--Mayans moved that the ordinance be placed on first reading and the necessary signatures authorized. --carried Motion carried 7 to 0.

ORDINANCE

An Ordinance creating new Section 4.04.017 of the Code of the City of Wichita, Kansas, pertaining to minors possessing, consuming, purchasing or obtaining alcoholic beverages, the penalty therefor, use of a preliminary breath test by law enforcement as evidence of violations, and amending Sections 4.04.025 and 4.16.130 of the City Code and repealing Section 4.12.025 of the City Code, introduced and under the rules laid over.

SEC 4.16.135/4.16.155

AMENDMENTS TO SECTIONS 4.16.135 AND 4.16.155 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO EXCEPTIONS TO REMOVAL OF OPEN BOTTLES OF ALCOHOLIC LIQUOR FROM THE LICENSED PREMISES OF A CLUB OR DRINKING ESTABLISHMENT.

Director of Law reviewed the item.

Agenda Report No. 06-0664

The Kansas Legislature, through the passage of SB 297 authorized drinking establishments and clubs to permit legal patrons to remove one or more opened containers of alcoholic liquor from the licensed premises, if such containers are the original containers and securely resealed, placed in a tamper-proof transparent bag and contains a dated receipt for the unfinished container. Under Kansas's law, establishments may only sell by the drink, except wine may be sold by the bottle or by the carafe. This is the only exception.

Currently, the City's ordinances prohibit the removal of any opened container of alcoholic liquor from any licensed premises. If passed, the proposed amendments will authorize establishments within the city to allow their patrons to take home-unfinished containers of alcoholic liquor in tamper-proof bags.

Provide a Safe and Secure Community. This amendment will allow for consistent laws pertaining to alcoholic liquor. It could also encourage patrons to consume less alcoholic liquor and avoid becoming over served if the unconsumed portion can be taken home.

The City of Wichita Law Department has drafted and approved the proposed ordinance as to form.

Gary Rebenstorf

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Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion----carried Mayans moved that the ordinance be placed on first reading and the necessary signatures authorized. Motion carried 7 to 0.

ORDINANCE

An Ordinance amending Sections 4.16.135 and 4.16.155 of the Code of the City of Wichita, Kansas, pertaining to exceptions to the prohibition against removal of open bottles of alcoholic liquor from the licensed premises of a club or drinking establishment and repealing the originals of said Sections, introduced and under the rules laid over.

SEC 11.38.158

<u>CREATION OF NEW SECTION 11.38.158 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO TRANSPORTING AN OPEN CONTAINER OF ALCOHOLIC BEVERAGE.</u>

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Report No. 06-0665

The Kansas Legislature has combined the statutes prohibiting transporting an open container of cereal malt beverage and transporting an open container of alcoholic liquor and relocated the single statute to the state's traffic code. A similar ordinance is proposed for the City's traffic code, which also contains additional changes made the 2006 Legislature in Senate Bill 297, addressing the transportation of open alcoholic beverage containers in vehicles that are not equipped with a trunk, such as a sport utility vehicle.

The proposed amendment will allow the city to be consistent with state law and will also clarify the activities that are prohibited. Also, the open container laws have always been considered traffic violations, but have been located with the ordinances pertaining to licensing the sale of alcoholic beverages. Creating a new ordinance that is located in the traffic code and combining the existing ordinances allow for more efficient enforcement of this law.

Provide a Safe and Secure Community. This amendment will allow the Police Department and Law Department to continue to more effectively charge and prosecute violations of the open container law. It also clarifies the rules for both the Police and the public regarding transporting open containers of alcoholic beverages in certain types of vehicles, such as buses, recreational vehicles and vehicles not equipped with a trunk.

The City of Wichita Law Department drafted and approved the proposed ordinance as to form.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion----carried Mayans moved that the ordinance be placed on first reading and the necessary signatures authorized. Motion carried 7 to 0.

ORDINANCE

An Ordinance creating new Section 11.38.158 pertaining to transporting an open container of alcoholic beverage and the penalty therefor, and repealing Sections 4.04.030 and 4.12.197 of the Code of the City of Wichita, Kansas, introduced and under the rules laid over.

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SEC 5.16.010

AMENDMENTS TO SECTION 5.16.010 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DESECRATING A CEMETERY OR BURIAL PLACE.

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Report No. 06-0666

The Kansas Legislature increased the jurisdictional amount for the misdemeanor crime of criminal desecration. Under the existing state statute, K.S.A. 21-4111, violation of criminal desecration was a misdemeanor offense if the damage done to property within a cemetery was less than \$500. The amendments to K.S.A. 21-4111, found in 2006 Senate Bill 366, raise the misdemeanor jurisdictional amount to include damage done to property in a cemetery in an amount less than \$1,000.

The amendments to 5.16.010 must be passed, in order to comply with the mandates of state statute, K.S.A. 21-4111, regarding jurisdictional limits for the crime of misdemeanor criminal desecration of a cemetery or burial place. Municipal criminal ordinances cannot be less restrictive than state criminal statutes. The amendment also contains some clean-up language to reflect State law provisions.

Provide a Safe and Secure Community. This amendment will allow the Police Department and Law Department to continue to charge and prosecute violations of criminal desecration of a cemetery or burial place.

The City of Wichita Law Department drafted the amended ordinance and approved it as to form.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Mayans moved that the ordinance be placed on first reading and the necessary signatures authorized. Motion carried 7 to 0.

ORDINANCE

An ordinance amending Section 5.16.010 of the Code of the City of Wichita, Kansas, pertaining to desecrating a cemetery or burial place, introduced and under the rules laid over.

SEC 6.04.035

AMENDMENTS TO SECTION 6.04.035 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO CRUELTY TO ANIMALS.

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Report No. 06-0667

The Kansas Legislature amended K.S.A. 21-4310, Cruelty to Animals, with SB 408 ("Magnum's Law"), creating felony offenses for certain acts that have been classified as misdemeanor offenses. Felony offenses under the amended statute include the intentional and malicious killing, injuring, maiming, torturing, burning or mutilating of any animal. Also included in the amendments to state statute are recognized exceptions to animal cruelty, which includes normal or accepted veterinary practices.

The amendments to City of Wichita Ordinance 6.04.035 must be passed, in order to comply with the mandated amendments to K.S.A. 21-4310. Municipal criminal ordinances cannot define as a misdemeanor, what is deemed to be a felony under state statute.

Provide a Safe and Secure Community. This amendment will allow the Police Department, Health Department, and Law Department to continue to charge and prosecute violations of Cruelty to Animals.

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The City of Wichita Law Department drafted the amended ordinance and approved it as to form.

Mayor Mayans Mayor Ma

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Mayans moved that the ordinance be placed on first reading and the necessary signatures authorized. Motion carried 7 to 0.

ORDINANCE

An Ordinance amending Section 6.04.035 of the Code of the City of Wichita, Kansas, pertaining to cruelty to animals, introduced and under the rules laid over.

SEC 11.42.030

AMENDMENTS TO SECTION 11.42.030 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DRIVING WHILE LICENSE SUSPENDED, CANCELED OR REVOKED.

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Report No. 06-0668

The Kansas Legislature, through the passage of SB 431 increased the penalty for Driving on a Suspended License, in violation of K.S.A. 8-262. For a third or subsequent conviction, it is mandated that a person spend a mandatory 90-day imprisonment and fined not less than \$1,500. The Court may order a person to spend 48 hours in the county jail, and the remainder of the 90 days may be served in work release or house arrest. Additionally, the Legislature amended the charge of driving while revoked, pursuant to K.S.A. 8-287, to reflect the increased penalty provisions for third or subsequent conviction.

The amendments to 11.42.030 must be passed, in order to comply with the mandates of SB 431 amending K.S.A. 8-262 and K.S.A. 8-287. Municipal criminal ordinances cannot be less restrictive than state criminal statutes.

Provide a Safe and Secure Community. This amendment will allow the Police Department and Law Department to continue to charge and prosecute violations of driving on a suspended license and driving while a person's privileges to operate a motor vehicle have been revoked.

The City of Wichita Law Department drafted the amended ordinance and approved it as to form.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion----carried Mayans moved that the ordinance be placed on first reading and the necessary signatures authorized. Motion carried 7 to 0.

ORDINANCE

An Ordinance amending Section 11.42.030 driving while license suspended, canceled or revoked, introduced and under the rules laid over.

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WATERWALK DEVELOPER AGREEMENT AMENDMENTS. (DISTRICT I)

Allen Bell Economic Development Administrator reviewed the item.

(Council Member Skelton momentarily absent)

Agenda Report No. 06-0669

In September 2002, the City of Wichita entered into a development agreement with WaterWalk LLC to develop the East Bank Redevelopment District, which was established in 1995. The Development Agreement was amended in December 2003 and October 2004.

The 2003 amendments to the Development Agreement (1st Amendment) requested the following changes:

- q The development of a destination retail store to be financed with STAR bonds, a tax increment financing mechanism to capture new state and local sales tax revenues generated by the project as the funding source to repay bonds used to finance public improvements and infrastructure.
- q The City had to amend the East Bank Redevelopment District boundaries to include the River Corridor Project area in order to make use of STAR bonds. This allowed the City to permanently finance River Corridor Project improvements with STAR bonds while making available general obligation bond financing for the destination retailer portion of the WaterWalk Project.

On September 9, 2004, WaterWalk LLC ("Developer") announced that Gander Mountain, Inc. would anchor the WaterWalk development as the destination retail store. The City Council endorsed the Developer's selection on September 21, 2004. The City Council directed staff to prepare the necessary ordinances and documents to amend the Development Agreement (2nd Amendment) per the following:

- q Provide City funding for a portion of the costs to develop the destination retail store on a design-build concept and associated public improvements. This required an ordinance invoking Charter Ordinance No. 177 to be voted on by 2/3-majority vote to use design-build without public bidding to construct improvements paid from public funds.
- q Redefine the project area that identifies the Destination Retailer Improvements within the project area. This was depicted on a site map to the 2nd amendment as Exhibit 15, except improvements related to streets and utilities. The site included the destination retailer building and site improvements, surface parking lots and a pedestrian bridge across the Arkansas River.
- q The 2nd amendment applied to the terms and conditions governing the construction of the Private Improvements to the construction of Destination Retailer Improvements. Under the Development Agreement, Private Improvements, which are designed, constructed and financed entirely by the developer, may be constructed pursuant to design-build contracts.
- q The City Council authorized the construction of Wichita and Water Streets, as well as the new interior street that connected the destination retailer building to Main Street as Public Improvements for the project area.
- Revision of the Project Development Budget was contained in Exhibit 4. The budget for STAR Bond Funding was replaced by the budget for the Destination Retailer Improvements totaling \$14,152,300. It was noted that this change included \$2.6 million that represented the imputed value of the land and was not an actual cost of the project. It was also noted that the cost of street improvements in the Destination Retailer Improvements Site were included in the budget for Public Improvements. In addition, the Public Improvements budget was increased by \$1 million to enhance the public art component, as approved by the City Council on September 21, 2004.
- q A minor change was made in Exhibit 5, the Phasing Schedule for the Project. The schedule called for the Developer and City to hold a Construction Phase Closing on or before 270 days following the commencement of design work on Public Improvements. That time frame had expired; however, the Developer was expected to have the closing before December 31, 2004. Exhibit 5 was changed accordingly.
- q Another minor change was the modification of the provision relating to the use of minority and women owned businesses to reflect the Developer's intention to provide \$3,000,000 in work to such firms as part of the Destination Retailer Improvements.

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q Another change to the Development Agreement required that Charter Ordinance No. 192 be amended to allow publicly-held companies, under certain circumstances, to sell second-hand merchandise without requiring every shareholder in the company to individually qualify for the second-hand dealer's license, and also allows stock to transfer. This charter ordinance amended Charter Ordinance No. 192.

The City Council is being asked to amend the Development Agreement for the 3rd time to allow certain publicly-financed improvements associated with Building C, the amphitheatre, hardscape improvements, and parking structure to be constructed by design-build, in compliance with City and State laws, which generally require public bidding. City Charter Ordinance No. 177 provides a procedure for waiving the bid law requirements when a project is developed under the terms of a preferred developer arrangement, such as the case with WaterWalk LLC. In addition to amending the Development Agreement for the 3rd time, the procedure requires the City Council to adopt an ordinance specifically approving the construction under the provisions of Charter Ordinance No. 177, which must be approved by a super-majority vote. Proposed amendments to the Development Agreement, and the various attachments and exhibits are intended to conform the agreement provisions and allow the project to proceed as required. The 3rd amendment to the Development Agreement includes the following documents that have been mutually agreed upon by the Developers and the City representatives:

- q Development Agreement 3rd Amendment
- q Attachment A Location of Building C, including parking structure
- q Attachment B Location of Amphitheatre

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- q Attachment C Revised Master Plan that was approved on December 13, 2005
- q Attachment D WaterWalk Parking District attachment to Exhibit 9
- q Exhibit 1 Scope of Development deletes reference to the waterway improvements in Project Goals
- q Exhibit 3 Revised Legal Description deletes reference to pedestrian bridge
- q Exhibit 4 Public Improvement Budget updates costs based on current project design
- q Exhibit 5 Phasing Schedule corrects reference to Building C parking structure
- q Exhibit 6 Ground Lease clean up of legal language
- q Exhibit 9 Parking District Agreement will include Attachment D in reference to WaterWalk Parking District
- q Exhibit 10 Maintenance Agreement Allocation of Responsibilities clarifies the City and Developers responsibilities within the project area. The Statement of City Practices will be a reference document for this amendment.

The following items are included with this green sheet in support of the Developers commitment to Wichita Area Association of Realtors (WAAR) who plan to initiate construction of their new building by September 2006:

- q Form of assignment for WAAR
- q Form of WAAR Tract Ground Lease, which is similar to Development Agreement Exhibit 6
- q WAAR Shared Footing Agreement
- q Monument Sign Easement
- q Confirmation of Public Parking Use

The total cost of the public improvements financed by the City remains at \$36,800,000. Of that amount \$6.5 million was previously programmed for Building C parking structure. The developers have requested that this amount increase by \$400,000 for an increase up to \$6.9 million for the parking structure. This increase cost will be paid out of the project contingency line item. This change is reflected in Exhibit 4 to the Development Agreement. Additionally the bonding resolution will be amended to include \$860,000 for administrative cost as part of the overhead costs for the project. A home rule-bonding ordinance is needed to authorize the combined \$13,900,000 in economic development financing for the Destination Restaurant Improvements, Building C Parking Garage Improvements and Destination Retailer Improvements.

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There is a Parking Agreement component to the Development Agreement that will be amended to provide for the imposition of parking fees based upon required parking spaces to be paid by the developers. The parking fees will continue to be paid at the rate of \$10 per stall per month until the revenues received by the City and property tax revenue paid on the structure will amortize \$4.0 million of the City's funding. This provides definition to Exhibit 9 the Parking Agreement of the Development Agreement. There is no impact on the overall public improvement budget. The City's debt service fund may have to absorb any shortfall in parking revenues, however, these funds will be eventually replaced by continuation of the \$10 per stall per month parking fee.

Economic Vitality and Affordable Living. Approving the Development Agreement and ordinances related to the agreement, will illustrate the City Council's commitment to downtown redevelopment and economic development initiatives in a core area.

The 3rd amendment to the WaterWalk Development Agreement, the non-bid ordinance, and the home rule ordinance have been drafted and approved as to form by the Law Department. The non-bid ordinance requires a 2/3 vote for approval following the public hearing. The City Council also needs to adopt a resolution to reduce the amount of the bonds to finance public improvements to \$22,900,000 and increase the bonds to finance economic development grants for construction of the Destination Restaurant Improvements, Building C Parking Garage Improvements and Destination Retailer Improvements to \$13,900,000. The total amount of bonding remains at \$36,800,000, exclusive of administrative costs up to \$860,000 and cost of interest on borrowed money. The resolution has been prepared and approved as to form by the Law Department.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Brewer moved that the public hearing be closed; the ordinance authorizing the development agreement amendments and approving construction pursuant to the provisions of Charter Ordinance no. 177 be placed on first reading; the Third Amendment to the Development Agreement, subject to the adoption of the ordinance authorizing its execution be approved; the home rule ordinance for the financing of the Destination Restaurant Improvements, Destination Retailer Improvements and Building C Parking Garage Improvements be placed on first reading; June 27, 2006 be set as the date for second reading and adoption of the ordinances and the amending bonding resolution be adopted. Motion carried 6 to 1, (Nay-Martz).

--carried

RESOLUTION NO. 06-367

A Resolution amending Resolution No. 04-534, authorizing the issuance of certain bonds of the City of Wichita, Kansas, to pay the costs of (1) certain public improvements in the Redevelopment of the East Bank redevelopment Area, (2) certain public improvements in connection with the River Corridor Project, and (3) funding an Economic Development Grant in connection with construction of facilities located I the East Bank redevelopment Area, and amending certain prior resolutions of the Governing Body of said City, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 1. Yeas: Brewer, Fearey, Gray, Schlapp, Skelton, and Mayans; (Nay-Martz).

ORDINANCE

An Ordinance of the City of Wichita, Kansas (the "City"), approving certain construction and approving and authorizing the execution of a Third Amendment to Development Agreement regarding development of the East Bank, by and between the City and Waterwalk, LLC, all pursuant to Charter Ordinance No. 177, introduced and under the rules laid over.

ORDINANCE

Ordinance of the City of Wichita, Kansas authorizing the issuance of its general obligation bonds to pay certain costs incurred in connection with the Waterwalk Redevelopment Project; and authorizing and providing for the issuance of temporary improvement notes of the city from time to time as funds are needed for such purpose, introduced and under the rules laid over.

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SAFER GRANT STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) GRANT.

Larry Garcia

Fire Chief reviewed the item.

(Mayor Mayans momentarily absent, Vice-Mayor Gray in the chair)

Agenda Report No. 06-0681

Created by congress in 2003, the SAFER grant is designed to provide funding to communities with career, volunteer and combination fire departments to "meet industry minimum standards prescribed by National Fire Protection Association (NFPA) Standards 1710 (Section 5.2.4.2 – Initial Full Alarm Assignment Capability) and 1720 and to attain 24-hour staffing that will provide adequate protection from fire and fire-related hazards. For the first time, Congress made an appropriation of \$65 million in SAFER grant funds. There are two activities in which applicants may request funding under the SAFER grant. Career fire departments may only apply for funding in the "Hiring of Firefighters Activity." These newly hired positions must be in addition to authorized and funded active firefighter positions.

The Fire Department has prepared a \$6,896,448 grant application to hire 24 new firefighters. The SAFER grant will pay up to \$2,484,000 and the City match will be \$4,412,448 over the five-year life of the grant. The SAFER grant requires the City match an increasing proportion of firefighter salaries over a four-year period and, in the fifth year of the grant, the City must absorb the entire cost of any positions funded as a result of the grant. Based on a total funding cap of \$103,500 per position over five years, the maximum annual Federal share of funds that the City can receive under SAFER for salary and benefits for newly hired firefighters will not exceed the lesser of the following:

Year One: 90% of the actual costs or \$37,260. Year Two: 80% of the actual costs or \$33,120. Year Three: 50% of the actual costs or \$20,700. Year Four: 30% of the actual costs or \$12,420.

Year Five: No Federal share, all costs funded by the City.

If the SAFER grant is approved, the City will receive the maximum grant amount per firefighter. Additional costs the City would incur for each of the 24 new firefighters would be the cost of their physicals, uniforms, recruit manuals, and bunker gear.

The base salary and benefit cost to hire 24 new firefighters and pay their salaries over a five year period is \$6,896,448. If approved, the \$6,896,448 grant application would require a local match of \$4,412,448, with \$2,484,000 funded through the SAFER Grant Program over the five-year life of the grant. It is recommended that the City use the proposed funding for seven new firefighters in the 2007 budget to meet the local grant match for 24 firefighters. If funded, the grant will enable the City to place more firefighters on the streets sooner. The City will use the funding for 17 firefighters in the proposed 2008 budget to offset the cost for future years.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion----carried Motion moved that the grant application be approved; the necessary signatures authorized and any necessary budget transfers authorized. Motion carried 7 to 0.

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LEARJET

IRB AMENDMENTS & PARTIAL PURCHASE OPTION - LEARJET (DISTRICT V)

Brian McLeod

Senior Assistant City Attorney reviewed the item.

Agenda Report No. 06-0682

The City has a number of outstanding IRB Series issued to finance facilities for the benefit of Learjet from 1996 through 2005. Learjet no longer needs all of the space in its Buildings 11 and 12, and so desires to buy these buildings and an asphalt/concrete parking lot out of the IRB project and sell them to a third party. Learjet also wishes to buy from the project and sell at auction several pieces of equipment it no longer needs. The list of machinery is attached as Exhibit 1 hereto, and the legal description of the real property at issue is attached as Exhibit 2. A fire pump and some modular furniture associated with Building 11 will also be left in place and included with the purchase of that building. Concurrently, Learjet proposes to call, redeem and retire \$3,259,739.70 in outstanding bonds that were used to finance the purchased assets.

Technical amendments are necessary to the existing IRB Lease and Indenture to facilitate the desired partial exercise of purchase option and partial call and redemption of bonds within specific series. Bond Counsel has prepared a Tenth Supplemental Trust Indenture and Tenth Supplemental Lease for this purpose, as well as an Ordinance authorizing these supplemental documents and a Special Warranty Deed (prepared by Law Department) and any other instruments necessary for implementation of the company's purchase option. The City has already received payment of the \$1,000 purchase option price, and Learjet, as both Tenant and Bondholder, is in a position to supply all necessary Tenant and Bondholder consents in connection with the document amendments and purchase option. Learjet has requested that the City waive the notice period provided for the exercise of purchase options under the Lease, to whatever extent such may be necessary to meet the existing calendar for Learjet's July equipment auction.

The purchase price is \$1,000 and other considerations as listed under the provision of the Lease (as it will be amended) including all payments necessary to redeem and retire the outstanding bonds that financed the purchased assets. This price includes without limitations, the payment of the outstanding principal, interest, and all other expenses of redemption for such bonds, and trustee fees, after the deduction of any amounts provided for in the Lease Agreement and available for such redemption.

The City Attorney's Office has prepared the form of the Special Warranty Deed and has reviewed and approved the form of the Ordinance, Tenth Supplemental Lease and Tenth Supplemental Indenture prepared by Bond Counsel.

Economic Vitality and Quality of Life. Cooperating with Tenants in their desired use and disposition of RB-financed assets helps to maintain the flexibility of the City's IRB program and its utility to Tenants, by minimizing burdens and restrictions that might otherwise tie up the financed property unnecessarily.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Martz moved that the partial bond call and the Tenant's request to waive notice be approved; the ordinance approving the Tenth Supplemental Indenture, Tenth Supplemental Lease, and Special Warranty Deed be placed on first reading and the necessary signatures authorized. Motion carried 7 to 0.

--carried

ORDINANCE

An Ordinance of the City of Wichita, Kansas, prescribing the form and authorizing the execution of a Tenth Supplemental Trust Indenture by and between the Bank of New York Trust Company, N.A., St. Louis, Missouri, as trustee; prescribing the form and authorizing the execution of a Tenth Supplement Lease by and between the City and Learjet, Inc., in connection with the project financed with the city's taxable Industrial Revenue Bonds, Series XII, 1996, Series XIX, 1997, Series XVI, 1998, Series IV, 1999, Series VIII, 2000, Series XV, 2001, Series VII, 2002, Series XII, 2003, Series VII, 2004 and Series IX, 2005 Learjet Inc.), introduced and under the rules laid over.

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PLANNING AGENDA

(Council Member Fearey momentarily absent)

Motion----carried Mayans moved to approve Planning Consent items 41-46 as approved in accordance with the recommended action shown thereon. Motion carried 6-0, (Fearey absent)

(Item 39) ZON2006-16

ZON2006-16-ASSOCIATED WITH CON2006-12, ZONE CHANGE TO LIMITED COMMERCIAL WITH PROTECTIVE OVERLAY #173; CONDITIONAL USE FOR WAREHOUSE, SELF-SERVICE STORAGE. GENERALLY LOCATED AT THE SOUTHWEST CORNER OF CENTRAL AND GARNETT. (DISTRICT II)

John Schlegel

Planning Director momentarily absent.

Agenda Report No. 06-0670

MAPC Recommendation: Approve, subject to conditions, vote (7-4).

MAPD Staff Recommendations: (1) Defer due to insufficient information submitted by applicant (staff report to MAPC 04-20-06); (2) approve subject to MAPC recommendation and subject to conditions recommended (memo to DAB dated 06-05-06)

DAB Recommendations: Approve, subject to conditions in DAB memo dated 06-05-06 (6-1)

The applicant is requesting a zone change from "SF-5" Single-family Residential to "LC" Limited Commercial for a 3.63-acre tract on the southwest corner of Central and Garnett Avenue. Additionally, the applicant is requesting conditional use approval for 2.88 acres for warehouse, self-service storage on an L-shaped tract that excludes the northeast corner (0.75 acre) of the rezoning request.

The site plan shows a lot area coverage of 45 percent, which is the maximum permitted by the Unified Zoning Code for warehouse, self-service storage in the "GO" General Office or LC district. The site plan does not meet minimum landscape buffers or contain the information on the site plan for easements, lighting fixtures, signage, building setbacks, etc.

Pictorial representations taken from other sites and intended to be prototypical of this site were submitted to show the character of the warehouse, self-service storage project. Exterior building walls show brick and composite siding, which is typical of residential construction. The pitch and type of shingle of the roof is similar to those commonly in use in residential areas. The metal fencing (often referred to generically as "wrought iron") also conforms to fencing typically found in residential development.

The property to the south and west of the site is zoned SF-5 and in residential use. Farther west on Central (one-eighth mile), a node of "GO" General Office zoning flanks Jackson Heights Street, developed with a real estate office and a hotel. A small lake connects to the properties along the west side of Garnett and south of Central. The property to the north and northwest were approved subject to platting for commercial and office use in 2001, but the property was never platted. Subsequently, the northwest tract was platted for SF-5 residential use (Crestlake Addition). A convenience store on property zoned LC is located to the northeast. The property to the east is zoned LC and partially developed as Crestview Plaza (DP-247 127th Retail Center) with a bank at the corner of 127th Street East and Central and with a small strip center with local retail types of uses. Approximately one-half of the CUP currently is vacant.

At the MAPC meeting held April 20, 2006, MAPC received a recommendation from staff to defer the case. Staff recommended deferral due to issues with the site plan, particularly due to it not meeting landscape buffer and building setback minimum distances of 15 feet for the west and south property line per Article III, Section III-D.6.y (4) of the Unified Zoning Code, and the difficulty apparent in meeting this criterion without substantially revising the site plan. Other concerns were lack of architectural elevations to review per Sec. III-D.6.y (5), type of lighting to be used and type of signage. MAPC heard testimony from the applicant and his agent as well as several neighbors in opposition.

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The agent offered a voluntary protective overlay for the area not included within the conditional use tract for the warehouse, self-service storage and asked for approval of the conditional use based on the site plan with the reduced width but offered to double the landscape plant materials provided within the ten-foot buffer. During staff presentation at the MAPC hearing, staff indicated that since the staff report recommended deferral, it did not include the standard conditions of approval for a conditional use. MAPC voted (7-4) to recommend approval of the request as submitted by the agent, including the addition of the protective overlay for the area outside the conditional use boundaries. This recommendation was as follows:

A. APPROVE the zone change (ZON2006-00016) to LC Limited Commercial for the entire tract, subject to a protective overlay with the following conditions for the property described as:

The north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

- 1. The following uses shall be prohibited: correctional placement residence, group residence, car wash, night club in the city, sexually oriented business in the city, tavern or drinking establishment, and vehicle repair.
- 2. Access control shall be dedicated by separate instrument or lot split to limit access to one approach on the frontage on Central.
- 3. Cross lot access shall be required for development on the property described as Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.
- B. APPROVE the conditional use for warehouse, self-service storage, subject to the following conditions on property more particularly described as:

Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas,

EXCEPT the north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

1. The minimum required landscape buffer may be reduced from 15 feet to 10 feet on the west and south property line with a doubling of the landscape buffer plant materials requirement on these property lines.

At the District II Advisory Board meeting held May 1, 2006, the DAB received a memo dated April 25, 2006, that contained the recommendation of MAPC as well as some additional information from staff about standard conditions of approval for a conditional use and some conditions for this site that could be considered by the DAB. One of the issues raised at the DAB meeting by citizens was whether the proposed building setback buffer widths are typical of other warehouse, self-storage uses in close proximity to residential uses. The board voted (11-0) to recommend deferral to the next DAB meeting, pending the possible revisions of the site plan and discussion of the buffer size typically found in close proximity.

At the District II Advisory Board meeting held June 5, 2006, DAB II heard additional testimony from the applicant and from citizens, reviewed an additional memo from staff dated June 5, 2006, and reviewed a revised site plan, architectural elevations and landscape plan from the applicant. DAB II voted (6-1) to recommend approval of the request based on the MAPC recommendation and the recommended additional conditions from the memo dated June 5, 2006. These combined conditions would be:

A. APPROVE the zone change (ZON2006-00016) to LC Limited Commercial for the entire tract, subject to a protective overlay with the following conditions for the property described as:

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The north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

- 1. The following uses shall be prohibited: correctional placement residence, group residence, car wash, night club in the city, sexually oriented business in the city, tavern or drinking establishment, vehicle repair, and restaurants with drive-through or in-car service.
- 2. Access control shall be dedicated by separate instrument or lot split to limit access to one approach on the frontage on Central.
- 3. Cross lot access shall be required for development on the property described as Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.
- B. APPROVE the conditional use for warehouse, self-service storage, subject to the following conditions on property more particularly described as:

Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas,

EXCEPT the north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

- 1. The subject property shall comply with the requirements of Article III, Section III-D.6.y of the Unified Zoning Code except the minimum required landscape buffer may be reduced from 15 feet to 10 feet on the west and south property line with a doubling of the landscape buffer plant materials requirement on these property lines.
- 2. Prior to consideration of the request by the City Council, a revised site plan demonstrating compliance with all requirements of Condition #1 and the site plan guidelines for a conditional use shall be submitted for review and approved by the Planning Director.
- 3. Prior to consideration of the request by the City Council, the architectural design of all buildings shall be approved by the Planning Director. The architectural design shall be consistent and shall be compatible with surrounding residential development and shall be of equal or better materials and design of those presented in the pictorial representations at the public hearing. Architectural elevations and renderings shall be submitted for purposes of this review, and upon approval, sufficient copies shall be retained in the files to ensure compliance with the approved architectural design.
- 4. A lot split application shall be submitted within 60 days one year of approval of the conditional use by the City Council, and approval of a lot split creating separate parcels for the warehouse, self-service storage, and remainder of Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas shall be received prior to the issuance of any building permits. The lot split shall establish a cross-lot access agreement between the parcels and access control along Central except for one shared opening.
- 5. The site shall be developed in general conformance with a landscape plan approved prior to the issuance of any building permits. The landscape plan shall comply with the requirements of the Landscape Ordinance and Section III-D.6.y (4) of the Unified Zoning Code except as otherwise required by this condition. A buffer with a minimum width of 10 feet on the south and west property line shall be landscaped with a minimum of double the required planting materials (shade, ornamental and evergreen plants) per the Landscape Ordinance. Existing plants shall be encouraged to be retained and used to meet buffer requirements; but and gaps between existing plants or areas where existing plants are removed shall be provided with interspersed new plant materials; for purposes of calculations, the linear feet of abutting property line without existing plant materials providing screening shall be used to determine calculate the amount of new plant materials to be provided, calculated at double the rate of the Landscape Ordinance.
- 6. Ground-mounted signage for the parcel shall be limited to monument style signage 3250 square feet in area and 20 feet in height.
- 7. Uses shall be restricted to warehouse, self-service storage, or other uses permitted in the SF-5 Single-family Residential District.
- 8. The subject property shall be developed in general conformance with the approved site plan, and no building permits shall be issued prior to the approval of the site plan.

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- 9. Construction of improvements shall be commenced within one year of approval by the appropriate governing body.
- 10. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Protests have been received in opposition to the request representing 50.25 percent of the property within 200 feet of the tract. This will require ³/₄ majority vote by the governing body to approve. Additional letters and email correspondence and protests from property owners in the vicinity have been received.

Promote Economic Vitality and Affordable Living.

The ordinance and resolution have been reviewed and approved as to form by the Law Department.

Motion--

Schlapp moved that the findings of the MAPC and additional findings be adopted; the zone change subject to the protective overlay be approved; the conditional use subject to the MAPC recommendation with the further conditions agreed to by the applicant and recommended by the District II Advisory Board be approved and withhold the publication of ordinance and implementation of resolution until the conditions of the protective overlay and conditional use are met. This recommendation is based on the following findings:

- 1) The zoning, uses and character of the neighborhood: The property to the south and west of the site is zoned SF-5 and in residential use. Farther west on Central (one-eighth mile), a node of "GO" General Office zoning flanks Jackson Heights Street, developed with a real estate office and a hotel. A small lake connects to the properties along the west side of Garnett and south of Central. The property to the north and northwest were approved subject to platting for commercial and office use in 2001, but the property was never platted. Subsequently, the northwest tract was platted for SF-5 residential use (Crestlake Addition). To the northeast, a convenience store is located on property zoned LC and approximately five additional acres are zoned LC and potentially developable with all uses permitted by right in the LC district. The property to the east is zoned LC and partially developed as Crestview Plaza (DP-247 127th Retail Center) with a bank at the corner of 127th Street East and Central and with a small strip center with local retail types of uses. Approximately one-half of DP-247 currently is vacant.
- 2) The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 Single-family Residential and could be redeveloped with more intensive residential use by replatting of the property. The presence of commercial use immediately to the east and the potential for additional LC uses to the northeast may hinder future low-density residential redevelopment.
- 3) Extent to which removal of the restrictions will detrimentally affect nearby property: The potential impact is to the surrounding residential uses to the south and west. The conditional use mitigates this impact by offering warehouse, self-service storage with residential-design type of buildings and materials, limited lighting and signage, and doubling the density of the landscape buffer on the south and west in compensation for a five-foot reduction width. The protective overlay reduces the intensity of commercial use on the area not included in the conditional use to less than already allowed on the LC properties to the east or northeast. It eliminates correctional placement residence, group residence, car wash, night club in the City, sexually oriented business in the City, tavern or drinking establishment, vehicle repair and restaurants with drive-through or in-car.
- 4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the Wichita-Sedgwick County Comprehensive Plan changed the 2002 recommendation for this site as well as the property along Central including the area 1/8 mile to the west already zoned GO General Office and developed with office and an extended-stay hotel, from "office" to "urban residential". The proposed rezoning would not be in conformance with the revised 2005 land use guide, however, it would be in conformance with the recommendation for "local commercial" shown for the adjacent property to the east and northeast. "Local commercial" includes warehouse, self-service storage, in limited scale as a recommended use.

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5) Impact of the proposed development on community facilities: The warehouse, self-service storage use generates lower volumes of traffic than urban density residential use. The volume generated by commercial use on the area not included in the conditional use is lessened by eliminating drive-through restaurants, which are one of the highest generators of traffic among uses allowed in the LC District, and by restricting the property to one shared drive access for both parcels onto Central. No significant impact is anticipated on other community facilities.

--carried

Motion carried 7 to 0.

RESOLUTION NO. 06-368

A Resolution authorizing a conditional use for warehouse, self-service storage on 2.88 acres zoned "LC" Limited Commercial, located at the southwest corner of Central and Garnett in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-D, as adopted by Ordinance No. 44-975, as amended, presented. Schlapp moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, introduced and under the rules laid over. (ZON2006-16)

(Item 40) CON2006-00022

CON2006-00022-CONDITIONAL USE FOR 150-FOOT WIRELESS COMMUNICATION TOWER ON PROPERTY ZONED GENERAL COMMERCIAL. GENERALLY LOCATED WEST OF MAIZE ROAD AND SOUTH OF WEST 21ST STREET. (DISTRICT V)

John Schlegel

Planning Director momentarily absent.

Agenda Report No. 06-0671

MAPC Recommendation: Approve (12-0), subject to staff recommendations except the following: (1) Change condition "D" of the conditional use to "The support structure shall be no greater than 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least five wireless service providers." (2) Delete condition "E" of the conditional use, which required that the facility be engineered and constructed to accept a 30-foot extension and five carriers.

Staff Recommendation: Approve, subject to conditions.

The applicant is seeking a conditional use to permit the construction of a 150-foot monopole wireless facility for use by T-Mobile USA. The proposed site is zoned GC General Commercial and located approximately 600 feet west of Maize Road just south of 21st Street North. The application area is also located in DP-184, Pearson Farms Commercial Community Unit Plan.

The character of the surrounding area is largely commercial in nature along the 21st Street and Maize Road corridors. The vast majority of surrounding property is occupied with retail commercial uses, although several offices, medical and church uses exist in the vicinity. Immediately north of the application area is a retail strip center zoned GC General Commercial. Across 21st Street North is the New Market Square development, which includes a car wash, Wal-Mart and many restaurants and retail shops in a mix of LC and GC zoning. The abutting property to the west is zoned LC and is developed with a nursery/garden center. The property adjacent to the south is zoned SF-5 Single-family Residential and developed with a church. Immediately east of the subject property is a medical office zoned LC Limited Commercial.

The application area is approximately 0.05 acres located within an existing U-Store self-storage facility. The site plan indicates that the proposed conditional use will utilize several of the self-storage units for storage and screening of necessary equipment. The site is well screened from surrounding properties,

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as the U-Store facility has a masonry/metal-screening wall on three sides. The application area is screened from 21st Street North by a retail strip center. As such, the recommendation includes no additional screening provisions.

The applicant has submitted a letter of intent from a second carrier (Alltel), which would co-locate upon approval of the conditional use request and completion of the facility.

Due to timing issues, DAB V had not heard the case by the submittal deadline for this report. The DAB V hearing is scheduled for June 5, 2006.

At the MAPC hearing on May 18, 2006, three individuals spoke in opposition to the conditional use. The MAPC voted (12-0) to recommend approval of the conditional use, subject to conditions recommended by staff except the following: (1) Change condition "D" of the conditional use to "The support structure shall be no greater than 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least five wireless service providers." (2) Delete condition "E" of the conditional use, which recommended that the facility be engineered and constructed to accept a 30-foot extension and five carriers. After discussion regarding the ultimate height of the extension, the MAPC motion was revised from the staff recommendation as noted. The conditions of approval recommended by the MAPC are:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the conditional use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall be no greater than 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least five wireless service providers.
- E. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- F. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- G. DP-184 shall be revised to include "one wireless communication facility" as an allowable use on Parcel 3.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the conditional use is null and void.

Staff has received written protest to the MAPC approved conditional use that totals over 67% of the total property within a 200-foot radius of the outer boundaries of the subject property. Therefore, at least 3/4 of the Governing Body must vote to approve the conditional use to overturn the protest.

Promote Economic Vitality and Affordable Living

The ordinance has been reviewed and approved as to form by the Law Department.

John Schlegel

Planning Director reported that for this case representing about 2/3 of the total notification area will affect the vote today. Stated that there is a recommendation for approval by the MAPC with the conditions that are outlined in the agenda backup report. Stated that in order to approve this today the Council would have to override the protest, which would require six votes. Stated that to deny this application would require a 2/3 super majority or five votes and the other option would be to send back to the MAPC for further consideration, which would require a simple majority or four votes.

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Council Member Martz

Council Member Martz stated that he has had a lot of challenges with this issue and with the 67% protest petition. Stated that the protest that has been presented to him by the surrounding business owners, there are few other places of businesses that are in this area that are outside of this protest area. Stated that this is the first time that a conditional use was not for a whole property and cannot recall every seeing just a portion of a property being asked for a conditional use. Stated that one of the protest that was not listed today was by the Denning Greenhouse and he made his presentation at the DAB V, part of his comments were that he had complied with the CUP that had come in play when he was building and he did things on his property that he did not necessarily want to do that added to his expenses in order to comply with the CUP at that time. Stated that he has other people within the protest area that said that they had complied with the CUP at the time they were doing things and this is now asking for a change to the CUP after these other businesses have already made their investments and cannot take their money back out or make changes. Stated that the vast majority of people around this area are against this. Stated that he cannot support this issue.

Mayor Mayans asked Council Member Martz if his DAB supported this. Mayor Mayans

Council Member Martz stated that they did and the MAPC supported it and that this is the time that he Council Member Martz reserves the right to disagree with his DAB.

Council Member Fearey Council Member Fearey stated that lately there are a lot of these types of issues coming before the Council and the applicant goes to a lot of work and goes to the DABs and goes to MAPC and there is a lot of work involved and there are some protests and then the Council denies it. Asked if maybe it is time for the Council to take another look at this whole issue. Stated that there are more and more cell

phone companies going into the business and as a community is it the Council's responsibility to make sure that everyone of those companies have a tower so that they can provide service in every little pocket of the community. Stated that she does not think we want to be a community that is filled with cell towers and another thing that the Council can do is to go back to looking at some regulations to disguise the cell towers and maybe direct staff to look at the master plan again and look at some new

innovations in technology.

Council Member Gray Council Member Gray stated that two years ago the Council reviewed and made the latest changes to the wireless master plan and one of the things that was done was to require that multiple providers were

to go onto the towers to help limit the numbers of towers out there. Stated that in a nation-wide perspective, the wireless companies are all merging and there are actually fewer wireless companies. Stated that cell phones are a factor of our lives and it is growing and expanding and we have to have these towers and we have a plan that is two years old that says we can have this tower here and this part of town needs cell phone towers because it is growing. Stated if the Council is going to deny these, even though they meet our plan, then there is a problem and finds it difficult that some of the Council Members do not think that this should be approved today knowing that the need continues to exist. Stated that this meets all of the requirements that exist, it has been approved by the DAB and the unanimously by the MAPC and that he feels this is a good thing for this area and it is necessary and important and should approve it and does not feel that the wireless master plan should be looked at

again for at least a few more years.

Mayor Mayans stated that he agrees with Vice-Mayor Gray and that this area is growing and there is more and more demand for service. Stated that he does not know if reviewing the wireless master plan is going to solve anything because if the Council is not going to do what the staff recommends or what the DAB recommends, who should we listen to. Stated that he is comfortable with supporting this

today.

Council Member Schlapp Council Member Schlapp stated that she has always had a concern with the height of the cell towers and thinks it is a discussion that the Council should have again at some point in time.

> Mayans moved that the findings of the MAPC be adopted; the conditional use to permit the proposed wireless communication facility, subject to the recommended conditions be approved and the ordinance

placed on first reading. Motion failed 3 to 4, (Nays-Brewer, Fearey, Martz, Schlapp).

Mayor Mayans

Motion--

--failed

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Motion-- Fearey moved that Council direct staff to look into best management practices regarding cell towers and

to report back to the Council as to whether or not they think anything needs to be changed or to look at

it in more depth.

John Schlegel Planning Director suggested that one of the things he feels should happen is that we should have a

direct dialogue between industry representatives and the Council. Stated that staff has been trying to carry the message back and forth between the Council Members and the industry and he does not know if they are as adequate for carrying the message, as they would be in a direct dialogue with the Council. Stated that they try to convey information to them and convey information to the Council from them but it may be to the point where the Council talking directly to them in a workshop type setting, would be

the most productive way to move this forward.

Council Member Fearey Council Member Fearey stated that would be an excellent place to start, then the Council could make a

decision on whether or not anything else needs to be done.

Council Member Gray Council Member Gray stated that he does not feel that the Council should waste staff's time because too

often the Council does not take the recommendations within their own wireless master plan that they have spent a lot of work on two years ago and he is afraid that this would be another effort wasting our

time but if the Council votes to take this path then he will be completely engaged in it.

Mayor Mayans Mayor Mayans stated that he is all for dialogue but for dialogue that is constructive and does not like

busy work or people to have staff do work and then not support it later on. Stated that he will support this motion because he feels that dialogue is good but thinks it will not solve the problem as far long as people do not listen to what the DAB or MAPC recommends. Stated that the Council is elected by the

people to represent them.

Council Member Martz Council Member Martz stated that he feels that bringing all of these people together is a good idea and

would help clarify this. Stated that regarding who the Council is representing and voting on issues, the MAPC and the DAB did not elect him. Stated that his constituents elected him to represent them on issues and on this particular case that is exactly what he did. Stated that it was the people around there, which almost all live in his district that approached him on this issue and he feels that it is incumbent upon him to represent the people that have put him in office and that is what he believes he has done.

--carried Motion carried 7 to 0.

ZON2006-22 AND CON2006-20-ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL

TO LIMITED COMMERCIAL AND A CONDITIONAL USE TO ALLOW A CAR WASH WITHIN 200 FEET OF A RESIDENTIAL ZONING DISTRICT. GENERALLY LOCATED AT THE NORTHEAST CORNER OF WEST KELLOGG DRIVE AND SOUTH OF MAIZE ROAD.

(DISTRICT V)

Agenda Report No. 06-0672

MAPC Recommendation: Approve (12-0), subject to staff recommendations.

Staff Recommendation: Approve, subject to platting within one-year and conditions.

The applicant is requesting a zone change from SF-5 Single-family Residential to LC Limited Commercial and a conditional use to allow a car wash to be located within 200 feet of residential zoning in the LC Limited Commercial zoning district. The 0.81-acre site is located on the northeast corner of the intersection of Maize Road and Kellogg Drive. All but the north 43 feet of the site, which is zoned SF-5 Single-family Residential, is currently zoned LC Limited Commercial. The rezoning is applicable to the north 43 feet, while the conditional use would cover the entire tract. The entire subject parcel is currently vacant. Quik Trip Corporation, owner of the property immediately west of the subject property, is proposing the car wash as an ancillary use to their existing convenience store.

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A mix of commercial and residential zoning and land uses exists on both sides of the Maize Road/Kellogg Drive intersection. The commercial zoning and uses are concentrated on the road frontages, while single-family residential zoning and uses exist northwest and northeast of this commercial node. The SF-5 zoning continues about 2,100 feet east of the site to Seville Avenue, where the highway frontage transitions back to commercial. Given the recent improvements to Kellogg Drive/US 54, it would be expected that the area east of the site would begin being developed with commercial uses consistent with the Functional Land Use Guide of the Comprehensive Plan. South of the site is the Kellogg Drive/US 54 right-of-way. A single-family residence zoned SF-5 abuts the site to the north.

Due to timing issues, DAB V did not hear this case. The date of the DAB V hearing would have exceeded the fourteen-day protest period from the date MAPC heard the case.

At the MAPC hearing on May 18, 2006, the MAPC voted (12-0) to recommend approval of the zoning change and the Conditional Use, subject to platting within one year and subject to conditions recommended by staff. The conditions of approval recommended by the MAPC are:

- A. The site shall be developed according to the site plan and maintained in compliance with all the requirements of Section III-D.6.f of the UZC regarding supplementary use regulations for car washes. All improvements shall be completed before the facility becomes operational.
- B. The site shall comply with all provisions of Section IV-C of the UZC, pertaining to compatibility standards.
- C. The site shall comply with all provisions of the Landscape Ordinance and the applicant shall submit a landscape plan for approval by the Planning Director.
- D. After a review of the development and upon appropriate findings, any violation of the conditions of approval will allow the conditional use to be declared null and void.

Promote Economic Vitality and Affordable Living

The ordinance has been reviewed and approved as to form by the Law Department.

Motion--

--carried

Mayans moved that the findings of the MAPC and approve the zoning change and the Conditional Use to permit a car wash, subject to platting within one year and subject to the recommended conditions be approved and the Planning Department instructed to forward the ordinance and resolution for first reading when the plat is forwarded to the City Council. Motion carried 6 to 0, (Fearey absent).

SUB2005-84

SUB2005-84-PLAT OF TARA FALLS THIRD ADDITION, LOCATED WEST OF 127TH STREET EAST AND NORTH OF PAWNEE. (DISTRICT II)

Agenda Report 06-0673

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (10-0)

This site, consisting of six lots on 2.1 acres, is replat of a portion of Tara Falls Addition and is located in Wichita's city limits. This site is zoned SF-5, Single-Family Residential District.

Petitions, 100 percent, and a Certificate of Petitions have been submitted for paving and water improvements. A Restrictive Covenant was submitted to provide four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Ensure Efficient Infrastructure.

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The Certificate of Petitions and Restrictive Covenant will be recorded with the Register of Deeds.

Motion----carried Mayans moved that the documents and plat be approved; the Resolutions adopted and the necessary signatures authorized. Motion carried 6 to 0, (Fearey absent).

Resolution No. 06-369

Resolution of findings of advisability and resolution authorizing constructing pavement on Michelle, from the north line of Tara Falls Third Addition to a point 15 feet north of the south line of Tara Falls 3rd Addition and including a temporary turnaround at the south end of Tara Falls Third Addition (west of 127th Street East, north of Pawnee) 472-84425, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Gray, Martz, Schlapp, Skelton, and Mayans, (Fearey absent).

Resolution No. 06-370

Resolution of findings of advisability and resolution authorizing construction of Water Distribution System Number 448-90113 (north of Pawnee, west of 127th Street East) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Gray, Martz, Schlapp, Skelton, and Mayans, (Fearey absent).

SUB2006-16

<u>SUB2006-16-PLAT OF EMERALD BAY LIFT STATION ADDITION, LOCATED SOUTH OF 29TH STREET NORTH AND WEST OF WEST STREET.</u> (DISTRICT V)

Agenda Report 06-0674

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

This unplatted site, consisting of one lot on .58 acres is located within the City limits. The site is zoned SF-5, Single-family Residential District. Municipal services are available to serve the site.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days. The City of Wichita is shown on the plat as the owner of this property.

Ensure Efficient Infrastructure.

Motion----carried Mayans moved that the plat be approved and the necessary signatures for both approval of the plat and as to the City's ownership be authorized. Motion carried 6 to 0, (Fearey absent).

VAC2006-00023

VAC2006-00023-REQUEST TO VACATE PORTIONS OF A PLATTED DRAINAGE EASEMENT AND A UTILITY EASEMENT DEDICATED BY SEPARATE INSTRUMENT, GENERALLY LOCATED SOUTH OF 45TH STREET NORTH, MIDWAY BETWEEN WOODLAWN BOULEVARD AND ROCK ROAD. (DISTRICT I)

Agenda Report No. 06-0675

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

The applicant is requesting consideration to vacate the west 10-foot wide portions of the platted 20-feet drainage easement and a utility easement dedicated by separate instrument (Film – Page #28562960), all located on Lot 21, Block B, Willowbend North Estates 2nd Addition. There are no franchised utilities, manholes, sewer or water lines in the platted easement. The easement abuts a golf course on

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its east side. The Willowbend North Estates 2nd Addition was recorded with the Register of Deeds on January 8, 2004.

The MAPC voted (10-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Ensure efficient infrastructure

Motion----carried Mayans moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 6 to 0, (Fearey absent).

VAC2006-00024

VAC2006-00024-REQUEST TO VACATE A PORTION OF A PLATTED EASEMENT, GENERALLY LOCATED NORTHWEST OF THE 29TH STREET NORTH AND TYLER ROAD INTERSECTION. (DISTRICT V)

Agenda Report No. 06-0676

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

The applicants are requesting consideration to vacate the south 5-feet and the north 4-feet of the platted 20-foot drainage and utility easement that runs parallel to the common lot line of Lots 141 & 142, Block 1, Fox Ridge Addition. There are no water or sewer lines or manholes in the platted easement. Storm Water has consented to the vacation as described. Westar has equipment in the easement and has consented to the vacation as described. The Fox Ridge Addition was recorded with the Register of Deeds on July 8, 2003.

The MAPC voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Ensure efficient infrastructure

Motion----carried Mayans moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 6 to 0, (Fearey absent).

VAC2006-00025

<u>VAC2006-00025-REQUEST TO VACATE A PLATTED EASEMENT, GENERALLY LOCATED SOUTH OF 13TH STREET NORTH AND WEST OF ZOO BOULEVARD.</u> (DISTRICT VI)

Agenda Report No. 06-0677

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

The applicant is requesting consideration to vacate the platted drainage easement, located between the common lot lines of Lots 5 & 6, Block A, Steve Kelley Addition. There are no franchised utilities, no manholes, sewer or water lines in the described platted easement. The described easement abuts another platted drainage easement located in its rear yard that is common with another eleven abutting, adjacent and continuous lots. Storm Water has approved the vacation of the described easement, ending at its intersection with the platted 20-foot drainage easement located in the rear (north side) yards of the subject lots. The Steve Kelley 5th Addition was recorded with the Register of Deeds on April 28, 2004.

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The MAPC voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Ensure efficient infrastructure

Motion----carried Mayans moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 6 to 0, (Fearey absent).

HOUSING AGENDA

ROSS PROGRAM

GRANT APPLICATION FOR RESIDENT OPPORTUNITIES AND SELF SUFFICIENCY (ROSS) PROGRAM. (DISTRICT VI)

(Council Member Martz momentarily absent)

Agenda Report No. 06-0678

On October 21, 1998, the Quality Housing and Work Responsibility Act (QHWRA) of 1998 was signed into law. Section 538 of the reform act added a new section to the United States Housing Act of 1937, which provides a mandate to link services and public housing residents for economic self-sufficiency.

The Department of Housing and Urban Development has issued a Notice of Funding Availability for the Resident Opportunities and Self Sufficiency (ROSS) program. This program includes a provision for grants to promote independent living for the elderly and persons with disabilities. The Wichita Housing Authority (WHA), Public Housing Division, was awarded \$200,000 for the 2003 ROSS Grant application, with the Sedgwick County Department on Aging as the WHA's partner and contract administrator. The three-year program has been well received and utilized by the 226 elderly and disabled households in Greenway Manor, McLean Manor, Rosa Gragg and Bernice Hutcherson apartment complexes.

The purpose of the ROSS Program is to provide public housing residents with links to supportive services, resident empowerment activities and resources to assist them in becoming self-sufficient. This purpose is consistent with HUD's goal to focus resources on independent living for the elderly and persons with disabilities. If awarded, the grant will enable Public Housing to continue the level of services currently provided to its tenants.

Staff of the WHA and Sedgwick County Department on Aging have developed a Resident Service Delivery Program which will continue to enhance the livability of Greenway Manor, McLean Manor, Rosa Gragg and Bernice Hutcherson apartment complexes for Public Housing residents. The program will assist residents with transportation, companionship and healthy living services at a nominal cost to the resident. The WHA will apply for the maximum grant award for Housing Authorities with 218 – 1155 elderly and non-elderly disabled units, which is total of \$240,000.00 for a three-year program. Under the proposal, the services would be provided by the Sedgwick County Department on Aging in partnership with the WHA. The deadline for the submission of the application is July 13, 2006.

The notice of funding requires a 25% match, which may be in-kind. The match of \$198,389 will be provided by the Sedgwick County Department on Aging and other non-City agencies. The Wichita Housing Authority will provide a match of \$1200 for equipment use, but will collect \$24,000 in rent for space and other overhead costs. No local tax funds will be required for this program.

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Promote Economic Vitality and Affordable Living

If the Grant application is awarded, the Wichita Housing Authority will enter into a formal contract with Sedgwick County for the Department on Aging to administer the program. The formal contract will be approved to form by the City of Wichita Law Department.

Motion--

Inafay Grays-McClellan moved that the submission of the ROSS Grant application to the Department of HUD be approved; staff authorized to develop a contract with Sedgwick County and the necessary signatures authorized. Motion carried 7 to 0, (Martz absent).

--carried

AIRPORT AGENDA

(Item 48) TERMINAL AREA REDEVELOPMENT PROGRAM, WICHITA MID-CONTINENT

AIRPORT.

(ITEM WAS PULLED 06-16-2006, PER CITY COUNCIL)

CITY COUNCIL

BOARD APPTS. BOARD APPOINTMENTS.

Council Member Gray Council Member Gray requested that Shane Chapman be appointed to the Board of Electrical Codes,

Standards and Appeals and Mary Cochburn to the Sister Cities Board.

Mayor Mayans stated that he has accepted the resignation of Cherylane Adams on the Park Board and Mayor Mayans

would like to appoint in her place Nalini Johnson.

Motion--carried Mayans moved to approve the appointments. Motion carried 7 to 0.

RECESS EXECUTIVE SESSION

Motion--Mayans moved that the City Council recess into Executive Session at 11:05 a.m. to consider:

> consultation with legal counsel on matters privileged in the attorney-client relationship relating to: potential litigation, legal advice, contract negotiations and confidential data relating to the financial affairs or trade secrets of a business and that the Council return from Executive Session no earlier than

11:50 a.m. and reconvene in the City Council Chambers on the First Floor of City Hall. Motion

carried 7 to 0. --carried

RECONVENE The City Council reconvened in the City Council Chambers at 11:55 a.m.

Motion--Mayans moved to extend the Executive Session for an additional 15 minutes, until 12:10 p.m.

--carried Motion carried 4 to 0, (Brewer, Fearey, Martz absent).

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RECONVENE The City Council reconvened in the City Council Chambers at 12:10 p.m. Mayans announced that no

action was taken.

Motion--carried Mayans moved to close the Executive Session at 12:10 p.m. Motion carried 4 to 0, (Fearey, Martz,

Skelton absent).

Motion--carried Mayans moved to close the Regular Meeting at 12:11 p.m. Motion carried 4 to 0, (Fearey, Martz,

Skelton absent).

ADJOURNMENT The City Council meeting adjourned at 12:11 p.m.

Respectfully submitted,

Karen Sublett CMC

City Clerk

^{***}Workshop followed in the First Floor Board Room***